

**PACKET**

**JAN 08**

**2018**



NAN BALMER  
TOWN ADMINISTRATOR  
TEL. (508) 358-7755  
www.wayland.ma.us

# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

## BOARD OF SELECTMEN

LEA T. ANDERSON  
MARY M. ANTES  
LOUIS M. JURIST  
CHERRY C. KARLSON  
DOUGLAS A. LEVINE

## BOARD OF SELECTMEN

Monday, January 8, 2018

6:15 p.m.

Wayland Town Building  
Selectmen's Meeting Room  
41 Cochituate Road Wayland

### Proposed Agenda

*Note: Items may not be discussed in the order listed or at the specific time estimated. Times are approximate. The meeting likely will be broadcast and videotaped for later broadcast by WayCAM.*

- 6:15 pm 1.) Open meeting and enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(3), to discuss whether the Town should pursue legal proceedings with respect to the Town's agreement with Twenty Wayland, LLC, relative to property and development located off 400-440 Boston Post Road; and to discuss strategy with respect to collective bargaining with the Fire Union and the Police Union
- 6:30 pm 2.) Call to order by Chair
- Review agenda for the public; Announcements
- 6:32 pm 3.) Annual Town Meeting Articles: Meet with the Planning Board on ATM articles and update or Marijuana Moratorium
1. Zoning Bylaw Amendment: Limited Site Plan
  2. Zoning Bylaw Amendment: Parking Requirements
- 6:50 pm 4.) Swearing in of Christopher Custodie as a Sergeant in the Wayland Police Department
- 7:05 pm 5.) Public comment
- 7:15 pm 6.) Appointments: Interview and potential vote to appoint candidates to vacant committee seats
1. Senior Tax Relief Committee
    - Rob Weiland
  2. Economic Development Committee
    - Ryan Scott
  3. Council on Aging / Community Center Advisory Committee
    - Wendy Levine
- 7:30 pm 7.) Petitioners' Workshop
- 7:45 pm 8.) Liquor License Hearing: Application filed by Dudley Chateau, LLC, for a new on-premises annual all alcoholic beverages license, at 20 Crest Road; Vote on application filed by Dudley Chateau, LLC for an annual restaurant license to sell all alcoholic beverages
- 8:00 pm 9.) New Town Website: Presentation by Jorge Pazos, IT Director



**BOARD OF SELECTMEN**  
**Monday, January 8, 2018**  
**6:15 p.m.**  
**Wayland Town Building**  
**Selectmen's Meeting Room**  
**41 Cochituate Road Wayland**

**Proposed Agenda Page Two**

- 8:20 pm 10.) Capital Projects and Town Building Repairs: Meet with Ben Keefe, Public Buildings Director, to provide direction on Town Building repairs and FY19 building improvement projects for Town Building and Fire Station #2
- 8:50 pm 11.) Debt Exclusion: Vote to approve letter to Finance Committee requesting a recommendation on Selectmen's intent to place debt exclusion question for building improvements on March 27, 2018 Town Election ballot; update on next steps with Finance Committee
- 9:00 12.) Annual Town Meeting Articles: General discussion and vote to approve submission of:
1. Recognize Citizens and Employees for Particular Service to the Town
  2. Pay Previous Fiscal Year Unpaid Bills
  3. Current Year Transfers
  4. Compensation for Town Clerk
  5. Choose Town Officers
  6. Accept Gifts of Land
  7. Sell or Trade Vehicles and Equipment
  8. Rescind Authorized but Unissued Debt
  9. Adopt Annual Revolving Fund Caps
  10. Hear Reports
  11. Close Recreation Commission 53D Beach Account
  12. Transfer Balance of Non-insurance Fund to Stabilization Fund
  13. Fund Council on Aging Design
  14. Fund Building Design and Improvements for Town Building and Fire Station #2
  15. Approve Five-year Lease for Information Technology Network
- 9:30 pm 13.) Town Administrator's Report
1. Correspondence
  2. FY19 Budget: Receive Town Administrator's recommendations on all departmental budgets except schools
  3. Annual Town Meeting logistics
  4. Collins Center update
  5. Conservation Open Capital Projects
  6. Update on 5 Concord Road petition
  7. Update on HR Director position
  8. IT Munis Capital Project
- 9:45 pm 14.) Minutes: Vote to approve minutes of December 4 and December 11
- 9:50 pm 15.) Consent Calendar: Review and vote to approve
- 9:55 pm 16.) Correspondence: Review
- 10:00 pm 17.) Selectmen's reports and concerns
- 10:05 pm 18.) Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any
- 10:10 pm 19.) Adjourn

3. ATM PLANNING BOARD  
ARTICLES

**Balmer, Nan**

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**Subject:** FW: Meet with Board of Selectmen  
**Attachments:** Zoning Bylaw Amendment - Off Street Parking.docx; REVISED draft bylaw amendment - site plan review.docx

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**From:** Daniel C Hill [<mailto:dhill@danhilllaw.com>]  
**Sent:** Wednesday, January 03, 2018 9:57 AM  
**To:** Balmer, Nan; Sarkisian, Sarkis  
**Cc:** Verhoosky, Jason; Anderson, Lea  
**Subject:** RE: Meet with Board of Selectmen

Hi Nan, yes we discussed this last night at the PB meeting, and I am planning to attend your meeting on the 8<sup>th</sup>. Attached are the two draft articles that the PB will be sponsoring for the Spring town meeting, and we are happy to have a discussion on options for managing the new recreational marijuana law through zoning. These articles are in draft form, for discussion purposes. The PB is not interested, at this point, in sponsoring a zoning amendment that would create an overlay zoning district for marijuana facilities, if there will be an "opt out" warrant article this Spring, but we should discuss this further on Monday.

-Dan



OFF STREET  
PARKING

**OFF STREET PARKING-- ZONING AMENDMENT**

Article \_\_\_\_

To see whether the Town will vote to amend Chapter 198 of the code of the Town of Wayland, the Town's Zoning Bylaw, by making the following revisions:

**I. SECTION ONE**

Add a new Section 506.1.11 as follows:

The Site Plan Approval Granting Authority (SPAGA) may, through a site plan review decision under Article 6 of the Zoning Bylaw, permit any or all of the off-street parking spaces required under this Section 506.1 to be: (a) identified on a site plan but not constructed until the actual need or demand for such spaces is determined by the SPAGRA, and/or (b) provided on a different parcel of land than the underlying principle use, provided that the SPAGRA finds that the location of the parking spaces is sufficiently proximate to the underlying principle use so as to be safe and convenient to the general public.

\* \* \*

**ARUMENTS IN FAVOR:** This zoning amendment provides flexibility in the creation of parking spaces serving commercial and other large-scale development projects in Wayland. Wayland's default requirement of one parking space per 140 square feet for general retail and commercial establishments is more onerous than most of our peer communities, resulting in the creation of larger parking lots than what is really necessary. For the new CVS pharmacy project at 150 Main Street in Cochituate Village, the Planning Board required the Applicant to not construct the parking spaces shown on the site plan along Main and West Plain Streets, and instead install a vegetated landscaping buffer. The Board "banked" these parking spaces for future construction, if demand necessitated them. The Building Inspector questioned the Board's authority to bank parking spaces, but the Zoning Board of Appeals upheld the condition.

This Bylaw Amendment eliminates any legal uncertainty, and codifies the sensible approach of reserving area on a project site for parking until the demand for the spaces is justified based on actual traffic conditions. This approach preserves open spaces, trees and natural vegetation, minimizes the creation of unnecessary impervious surfaces, and affords opportunities to screen commercial development from neighboring residential areas.



LIMITED SITE PLAN REVIEW – ZONING AMENDMENT

Formatted: Underline

Article \_\_\_\_

To see whether the Town will vote to amend Chapter 198 of the code of the Town of Wayland, the Town's Zoning Bylaw, by making the following revisions:

I. SECTION ONE

Strike Section 603.3 and replace it with the following:

603.3

Notwithstanding Section 601.2, *supra*, any proposed nonprofit educational, agricultural, religious, or child care uses of land protected under G.L. c. 40A, §3 ("Section 3 Uses") shall be subject to site plan review under Article 6, which shall be consistent with those statutory provisions. The purpose of this Section is to ensure that all such uses and facilities are reasonably regulated in regards to bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage.

603.3.1

In reviewing the site plan submittal for a Section 3 Use, the following issues shall be considered:

(a) ~~relationship of the bulk and~~ height of any proposed structures and accessory structures, and adequacy of open spaces, the intensity of use of the site (building coverage on the site), yard sizes (setbacks) and lot areas, ~~to the natural landscape, existing buildings and other community assets in the area, and compliance with other requirements of this Bylaw, which includes but is not limited to lot coverage, yard sizes, lot areas and setbacks.~~

(b) physical layout of the structures, driveways, parking areas, utilities and other infrastructure ~~as it relates to the convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to adjacent streets, and when necessary, compliance with other requirements for the disabled, minors or the elderly; and~~

(c) adequacy of the arrangement of parking and loading areas in relation to the proposed use of the site; ~~and~~

~~(d) physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts on neighboring properties and excessive light pollution.~~

603.3.2

Site plan review of a Section 3 Use shall be by the Planning Board ("Board"). ~~In considering a site plan for a Section 3 Use, the Board shall consider whether any proposed or potential incidental uses are in harmony with the uses permitted in the underlying zoning district.~~ Subject to the limitations of G.L. c. 40A, §3, the Board shall impose any such conditions, limitations, and safeguards as it deems appropriate

to protect the interests of, and consistent with, the planning objectives for the underlying zoning district. The Board shall file its written decision with the Town Clerk within sixty (60) days of receipt of an application, unless such time is extended by agreement of the applicant.

## II. SECTION TWO

In Section 802, Table of Permitted Uses, amend footnote "1" to read as follows: "Site plan review shall be limited as set forth under Section 198-603.3 of this Zoning Bylaw."

## III. SECTION THREE

In Section 606.3, first sentence, replace the term "Building Inspector" with "Planning Board."

\* \* \*

**ARGUMENTS IN FAVOR:** This zoning amendment fills a regulatory gap in our existing Zoning Bylaw by requiring major educational, agricultural, religious and day care land use development projects to undergo a site plan review process managed by the Planning Board, which members are Wayland residents who are elected rather than appointed. The Planning Board will have the authority to impose reasonable conditions and restrictions to protect the broad planning goals and objectives embodied by the Zoning Bylaw. Without this amendment, such uses could be expanded, without appropriate scrutiny or oversight, to include ancillary or incidental components that may create undesirable impacts on the town or the immediate residential neighborhood, such as illuminated athletic fields and musical entertainment facilities, commercial or retail buildings, or large parking lots. The current Bylaw leaves the review of these facilities to the appointed Building Commissioner, without a public hearing or an enforceable zoning decision.

**ARGUMENTS IN OPPOSITION:** Some may argue that the Building Commissioner's review is sufficient, and that creating a Planning Board review process will add delay to construction of otherwise worthy projects. Further, the Carroll School experience was favorable without the need for this level of review.

## 6. Committee Appointments

**DATE:** January 8, 2018

**TO:** BOARD OF SELECTMEN

**FROM:** David Porter, Executive Assistant to the Town Administrator & Board of Selectmen

**RE:** Appointment to the Senior Tax Relief Committee  
Appointment to the Economic Development Committee  
Appointment to the Council on Aging / Community Center Advisory Committee

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**VOTE: TO APPOINT ROBERT WEILAND TO THE SENIOR TAX RELIEF COMMITTEE, EFFECTIVE IMMEDIATELY, FOR A TERM TO EXPIRE ON JUNE 30, 2020.**

Robert Weiland has expressed interest in serving on the Senior Tax Relief Committee. He is a retired attorney with more than thirty years of experience practicing tax law. He attended a meeting of the Senior Tax Relief Committee.

There are currently five members serving on the Senior Tax Relief Committee. If appointed, Mr. Weiland would fill one of two vacancies, expiring in June 2019 and June 2020.

**VOTE: TO APPOINT RYAN SCOTT TO THE ECONOMIC DEVELOPMENT COMMITTEE, EFFECTIVE IMMEDIATELY, FOR A TERM TO EXPIRE ON JUNE 30, 2018**

Ryan Scott expressed interest in serving on the Economic Development Committee. His C.V. is attached. He brings significant experience in marketing and commerce solutions. In his current role as a VP at Keurig Green Mountain, Mr. Weiland is well-versed in the challenges and opportunities of physical retail.

There are two vacancies to fill, both for terms expiring June 30, 2018, due to the resignations of John Pugh and Jim Grumbach.

**VOTE: TO APPOINT WENDY LEVINE TO THE COUNCIL ON AGING / COMMUNITY CENTER ADVISORY COMMITTEE, EFFECTIVE IMMEDIATELY, FOR A TERM TO EXPIRE ON JUNE 30, 2018**

Wendy Levine expressed interest in serving on the Council on Aging / Community Center Advisory Committee. Her letter of interest is attached. Ms. Levine has practiced environmental law for more than 32 years and currently manages National Grid's environmental permitting practice which involves securing federal, state, and local permits for electric and gas infrastructure projects. She also served on the Wayland Conservation Commission for 10 years, including two years as Chair.

There are two vacancies on the Council on Aging / Community Center Advisory Committee, both for terms expiring June 30, 2018.



## Porter, David

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**From:** Anderson, Lea  
**Sent:** Friday, October 13, 2017 4:58 PM  
**To:** Robert Weiland  
**Cc:** Balmer, Nan; David Porter; Secord, Julie  
**Subject:** Re: Senior Tax Relief Committee

Dear Mr. Weiland,

Thank you so much for your interest in the Senior Tax Relief Committee. We will be in touch with you regarding a date for an interview at a Board of Selectmen's meeting in the near future.

Best regards,  
Lea Anderson  
Chair, Wayland Board of Selectmen

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**From:** Robert Weiland <[robweiland1@gmail.com](mailto:robweiland1@gmail.com)>  
**Sent:** Friday, October 13, 2017 4:40 PM  
**To:** Anderson, Lea; Karlson, Cherry; Antes, Mary; Jurist, Louis; Levine, Doug  
**Cc:** Secord, Julie; Balmer, Nan; Brian Colella; [jolinbradford@gmail.com](mailto:jolinbradford@gmail.com); David Porter; [jolinbrad@gmail.com](mailto:jolinbrad@gmail.com)  
**Subject:** Senior Tax Relief Committee

Hello,

I am writing to express my interest in being appointed to the Wayland Senior Tax Relief Committee. I am a retired attorney who, with my wife, have lived in Wayland for 26 years. Earlier this week I attended a meeting of the Committee, and the experience confirmed my interest.

I understand that the selectmen require an interview, Please let me know when you would like me to attend a meeting.

My (abbreviated) resume is below.

Thank you.

Rob Weiland

**Robert Weiland** 62 Three Ponds Rd., Wayland 01778•(508) 358-0145•[robweiland1@gmail.com](mailto:robweiland1@gmail.com)

### Education

- University of Wisconsin, BA in History, 1968
- Boston College Law School, JD Magna Cum Laude, 1981

## **Experience**

- **Goulston & Storrs P.C., Boston, Partner (Tax, Not-for-Profit and Corporate) 1988-2015**
- **Goulston & Storrs P.C., Boston, Associate (Tax) 1985-1988**
- **Choate, Hall & Stewart, Boston, Associate (Tax) 1982-1985**
- **Supreme Judicial Court, Boston, Law Clerk to Judge Nolan 1981-1982**
- **Juggler Book Store, Woodstock, N.Y., Owner, 1975-1978**
- **Sage Carpentry, Inc., New York and Woodstock, N.Y., Principal, 1971-1975**

## Porter, David

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**From:** Ryan Scott <ryan.scott321@gmail.com>  
**Sent:** Monday, December 18, 2017 9:23 AM  
**To:** Porter, David  
**Cc:** Rebecca Mattson Stanizzi  
**Subject:** Application to join Wayland EDC  
**Attachments:** Ryan\_A\_Scott\_10-16\_v1.pdf

David,

I have been talking with Becky and other EDC member about joining and have attended the last couple of meetings to evaluate if I could be helpful to the group. After talking with the EDC members, I would like the opportunity to join and to provide my support to efforts in the town to further develop our economic base within the community.

We moved to Wayland in 2005, living first on Concord Rd and for the last two years now at 25 Glen Rd. We have two daughters at WMS and are big fans of the town and are supportive of growing the town effectively while preserving what we all love about Wayland.

My day job is at Keurig Green Mountain where I am a Vice President supporting our digital technology supporting marketing and commerce solutions. I have an MBA from the University of Michigan with a focus on marketing and strategy. My role at Keurig has me well-connected to the realities of physical retail and marketing and I look to offer that knowledge and experience to the town through my participation on EDC. I have attached a current resume that reflects my overall career progression over the last 20+ years.

Let me know what next steps are from here. Thank you for your time and consideration.

Regards,  
Ryan

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**Ryan Scott**  
[ryan.scott321@gmail.com](mailto:ryan.scott321@gmail.com) | 617 270 6271



## RYAN A. SCOTT

(617) 270-6271

Wayland, MA 01778

[ryan.scott321@gmail.com](mailto:ryan.scott321@gmail.com)

### EXPERIENCE

12/15 to Present

#### KEURIG GREEN MOUNTAIN

Burlington, MA

##### Vice President – Digital Operations & Innovation

Responsible for digital commerce and marketing technologies for industry leader in single-serve hot beverages.

- Oversee Keurig eCommerce platform, which delivers more than \$300M of revenue and is an Internet Retailer Top 100 site leveraging SAP hybris
- Lead teams building and operating integrated digital marketing technologies that attract and retain customers through outbound email, digital media campaigns, customer data management, and customer service technologies
- Responsible for development of IoT architectures and technologies supporting brewers and a range of IoT-enabled product offerings

4/08 to 12/15

#### SAPIENTNITRO, A DIVISION OF PUBLICIS.SAPIENT

Boston, MA

##### Vice President, Global Strategy Lead – Digital Marketing Platforms (7/12 to Present)

Responsible for product and solution development, as well as partner strategy, for digital marketing within SapientNitro's Consumer Engagement Platforms business line.

- Own product and delivery strategy for business line with 2,500 resources and >\$450M annual revenue
- Responsible for continued success of global Adobe partnership - Sapient's single largest partner by revenue and resources
- Lead development of SapientNitro technology platforms, including IONOS™, EngagedNow™, and Integrated Experience Architecture for Adobe AEM
- Lead digital transformation consulting efforts with clients in retail, consumer products, travel, and sports verticals
- Responsible for Business Consulting & Strategy domain in New England territory
- Recipient of 2012 Sapient Chairman's Award

##### Director, Client Executive (4/08 to 7/12)

Responsible for all aspects of SapientNitro's work at a range of Boston and global clients focused on retail, travel, and professional services. Manage P&L's across a range of client teams totaling more than 300 Sapient personnel. Responsible for Demandware-based work.

- Responsible for SapientNitro's relationship with Demandware and led delivery center (175+ headcount) supporting Demandware work across SapientNitro clients driving more than \$25M of annual revenue.
- For a large payment provider, oversaw design and development of real-time mobile offer and campaign management platform
- For a large retail pharmacy:
  - Oversaw online advertising creative development and production including weekly and seasonal components to create incremental store visits and transactions
  - Led a .com migration strategy to ATG 2009, including the implementation of Endeca for site and product search

10/06 to 11/07

- For a large off-price retailer, led the re-implementation of their web properties to design, develop, and maintain full social shopping websites that integrate to outbound email campaigns, Facebook and other social channels
- For a call center-based concierge service, led strategy definition, business case development, product selection, and implementation of a customer portal and knowledge management solution integrating SDL Tridion, Endeca, and Siebel CRM to enable a 500+ person call center servicing high-income card holders

## **N2N COMMERCE, INC. (GENERAL CATALYST PORTFOLIO COMPANY)**

### **Vice President, Platform Delivery & Professional Services**

Cambridge, MA

**Drove design and development work for multi-channel direct-to-consumer retail commerce platform in implementation for Victoria's Secret Direct, a \$1.4 billion online business.**

- Led overall delivery of Release 1 of n2N platform, integrating RIA-enabled eCommerce, industry-leading merchandising management capabilities and innovative personalization technologies built on (SaaS)
- Oversaw execution of all threads across development team peaking at over 70, employing Agile methods across a series of development sprints over eight months
- Leveraged background as a developer and technical architect to drive architecture and implementation decisions across the platform
- Applied direct operational experience as member of Executive Team as company emerged from seed phase into full-scale operation
- Drove planning, design and vendor selection for future releases, adding Call Center and Order Management capabilities to the platform
- Responsible for vendor partners at all stages, from contract inception through delivery
- Built up Professional Services organization to support up-front analysis & design work as well as post-production ongoing support.

2003 to 2006

## **KEANE, INC., ARCHITECTURE SERVICES (NOW NTT DATA)**

Cambridge, MA

formerly netNumina Solutions (GREYLOCK PORTFOLIO COMPANY), acquired 3/05

### **Managing Director, Global Delivery & Operations (12/05 to 10/06)**

**Delivery and Operational Ownership of Multi-Line Global Business executing Architecture Strategy and Custom Application Implementation Projects.**

- Established and executed strategy for \$40M+ Pharmaceutical & Financial Services Business Lines with over 250 consultants in the US and India.
- Managed Business Line financials including responsibility for revenue projections and achievement of P&L targets
- Worked across other Keane Business Lines to develop joint go-to-market strategies
- Approved all proposals and statements of work, including pricing and margin decisions
- Responsible for financial, operations and IT support team.

### **Director of Service Delivery (Pharmaceutical & Financial Services) (7/04 to 12/05)**

**Delivery Responsibility for Architecture Strategy, Custom Application Development, and Analytics Dashboard Implementation Projects.**

- Drove all aspects of client delivery across 100+ person organization, directly managing a group of more than 20, and delivering \$20M+ in revenue
- Responsible for work efforts of project teams on broad range of architecture strategy and custom application development projects focused on service-oriented architectures (SOA) and effective use of data analytics



- Responsible for all proposal and project pricing and statements of work
- Provided enterprise architecture leadership and vision to our largest clients.

**Principal Project Manager, Pharmaceutical Practice (8/03 to 7/04)**

**Service-Oriented Architecture Strategy & Implementation Projects.**

- Managed portfolio of project teams across netNumina's largest Pharmaceutical client, achieving 200% year-over-year account growth through aggressive relationship building and reliable project delivery on both Commercial and R&D sides of the business
- Partnered with client Application Architecture team to establish and implement service-oriented reference architecture and enterprise portal strategies, including transition to .NET-based technologies

1999 to 2003

**DELOITTE CONSULTING**

Boston, MA

**Manager, Strategy & Operations Practice (7/01 to 7/03)**

**Deloitte Consulting Separation: "Day One" US Operational Readiness Manager**

- Led multiple teams and projects delivering critical business and technology capabilities to support Deloitte Consulting's separation from its parent, D&T

**Data Warehousing: Vehicle Configuration Sales Effectiveness Data Warehouse**

- Led client and multi-vendor team defining and developing tools to better measure customer demand for the products of a global automaker. The team developed large-scale data warehouses that enabled the client to more closely forecast production, optimize product distribution and aid dealer ordering

**Senior Consultant, Strategy & Operations Practice (9/99 to 7/01)**

Detroit, MI

**Marketing Strategy: Product Configuration Strategy Implementation**

- Led effort working with product teams to develop and implement a common vehicle configuration strategy for the US products of a global automaker

**Mergers & Acquisitions: Operational Due Diligence for Automotive Supplier**

- Worked with a large automotive supplier on international merger projects; led team tasked with assessing and integrating target's manufacturing footprint

1994 to 1997

**AMERICAN MANAGEMENT SYSTEMS, INC. (NOW CGI, INC.)**

Fairfax, VA

**Principal, Telecommunications Industry Group**

- Led team of ten through design and development phases of three-tier client/server customer care system for large telecommunications company Implemented object-oriented design, increasing workflow efficiency by 60%

EDUCATION

**UNIVERSITY OF MICHIGAN**

Ann Arbor, MI

**Ross School of Business Administration**

Master of Business Administration, *with distinction*, May 1999

- Emphases: Marketing and Corporate Strategy

**AMERICAN UNIVERSITY**

Washington, DC

**School of International Service**

BA, International Relations, *magna cum laude*, May 1994

- Semester Abroad in Brussels, Belgium, Spring 1993



Wendy B. Levine  
50 Three Ponds Road  
Wayland, MA 01778  
wendylevey1@gmail.com

December 11, 2017

RECEIVED

DEC 11 2017

Wayland Board of Selectmen  
41 Cochituate Road  
Wayland, MA 01778

*Re: Council on Aging/Community Center Advisory Committee Vacancy*

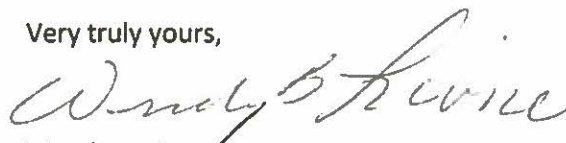
Dear Board Members,

I write to request that the Board consider appointing me to one of the vacancies on the Council on Aging/Community Center Advisory Committee. I am well-suited to serve as a member of the Committee. I strongly believe that the Town of Wayland needs a new home for the Council on Aging and a community center, the Town Center property is the perfect location for those uses and my skill set will allow me to be a productive member of the Committee.

As some of you may know, I served on the Wayland Conservation Commission for ten (10) years, two of them as Chair of the Commission. I have been an environmental lawyer for over 32 years and have spent over 25 years as in-house counsel at National Grid. I am currently an Assistant General Counsel managing the Legal Department's environmental permitting practice, focusing predominately on projects in Massachusetts, Rhode Island, Vermont and New Hampshire. I work with my clients to secure necessary federal, state and local permits and approvals for large and small electric and gas infrastructure projects. Representative projects include partnering with Deepwater Wind to permit the transmission cable for the Block Island Wind Farm, the nation's first offshore wind farm, permitting a number of company-owned solar generation facilities and new electric transmission lines.

Given my interest in this issue and civic and professional background, I am confident that I would be able to make a meaningful contribution to the Committee. Please let me know if you have any questions and thank you for your consideration.

Very truly yours,



Wendy B. Levine

Wendy Levine

**WARRANT ARTICLE PROCESS: Guide for Petitioners**

Citizens have the right to submit articles for consideration by the Town Meeting. Such articles must be in writing and signed by ten or more registered voters for Annual Town Meeting (ATM) or 100 or more registered voters for Special Town Meeting (STM), using the attached form. All petitioners' articles must be submitted in accordance with the law on or before January 15 or such time as may be fixed by the Board of Selectmen, and all such articles for Special Town Meeting must be so presented on or before the date fixed by the Selectmen for closing of the warrant for such meeting. All petitioners' articles having the required number of qualified signatures must be included in the Town Meeting Warrant by state statute.

The Board of Selectmen and the Finance Committee encourage citizens to work with appropriate Town boards to achieve their goals whenever possible before submitting petitioners' articles.

**ATM Time Line and Process**

<b>Date</b>	<b>Action</b>	<b>Responsibility</b>
December / January (2018 DATE is 1/8)	Hold a workshop for citizens interested in submitting petition for Annual Town Meeting. Potential articles and the submission process may be discussed with the Selectmen.	Board of Selectmen
On or before January 15 or such earlier time as may be fixed by the Board of Selectmen (2018 DATE IS 1/16 AT 4:30 PM)	Submit petitioners' articles for Annual Town Meeting both on paper with signatures and by email (to <a href="mailto:dporter@wayland.ma.us">dporter@wayland.ma.us</a> ) in Microsoft Word. Articles are collected and numbered, and copies are given to the Board of Selectmen, Finance Committee, Moderator, and Town Counsel. Petitioners are encouraged to provide the Finance Committee with draft comments, arguments in favor, and arguments against their articles at the time of submission. Signatures on the petition are verified by the Town Clerk.	Town Administrator
January - March	Review articles, determine their order, vote positions on most articles; may meet with petitioners. The Board will discuss substantive articles with petitioners. And attend the Finance Committee's meeting with petitioners.	Board of Selectmen
January - March <b>FINANCE COMMITTEE WORKSHOP 1/22/18</b>	Study each petitioner's article and prepare a report for the Warrant. The Finance Committee meets with petitioners to discuss articles at a public meeting. The Committee may explore alternative means for accomplishing the article's objective. A member of the Committee is assigned to the article to prepare a report for the Warrant, including comments and pro and con arguments and the Committee's recommendation to Town Meeting.	Finance Committee
January - March	Meet with Finance Committee and/or Board of Selectmen to discuss article; write report of no more than 150 words to be printed in the warrant if desired and if the Finance Committee prepares a report. Such discussions help to identify issues that require further work on the part of the petitioner as well as to identify arguments for and against passage.	Petitioners
February	Town Counsel will review articles for form, legislative intent, and procedural compliance and will provide main motion and the quantum of vote required for passage. Town Counsel will not render written opinions or give advice to petitioners about substantive legal issues and will not advise petitioners when there is a potential conflict of interest between the petitioners and the town.	Town Counsel
Approximately 7 days prior to ATM	Attend Board of Selectmen warrant article hearing. Petitioners should attend this hearing to review their warrant articles.	Selectmen with Moderator and Finance Committee
ATM	Move the article and make a brief presentation on the merits of the article. Movers of articles have a limited amount of time to explain and present arguments in favor of passage of the article (currently 10 minutes). This presentation is made at the procedural (center) microphone. Petitioners may prepare handouts and slides. If the motion differs substantially from the article printed in the warrant, printed copies must be prepared for the moderator and made available for people attending Town Meeting.	Lead Petitioner
ATM	Consider each article at Annual Town Meeting. Citizens are encouraged to debate the merits of articles, ask questions, and make amendments when appropriate. Main motions in excess of 25 words that differ significantly from the warrant and amendments in excess of 10 words must be legibly written for submission to the moderator and made available to people attending Town Meeting. Please refer to the Moderator's Rules in the warrant for more detailed guidance.	Town Meeting attendees

**PETITIONERS ARTICLE FOR WAYLAND TOWN MEETING**

LEAD PETITIONER \_\_\_\_\_ DATE RECEIVED \_\_\_\_\_

DAY PHONE \_\_\_\_\_ EVENING PHONE \_\_\_\_\_

TITLE \_\_\_\_\_

TOWN BOARD/DEPARTMENT AFFECTED BY ARTICLE \_\_\_\_\_

ESTIMATED COST \_\_\_\_\_

ARTICLE: To determine whether the Town will vote to:

**Add comments and pro and con arguments on the next page. Thank you.**

#	Print Name Legibly	Signature	Print Street Address
1			
2			
3			
4			
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6			
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12			
13			
14			



**PETITIONERS ARTICLE FOR WAYLAND TOWN MEETING**

*Page 2*

**DRAFT FINANCE COMMITTEE COMMENTS**

**DRAFT FINANCE COMMITTEE PRO ARGUMENTS**

**DRAFT FINANCE COMMITTEE CON ARGUMENTS**

**INSTRUCTIONS FOR COMPLETING PETITIONERS ARTICLE FORM**

**Lead Petitioner:** The lead petitioner will serve as spokesperson for the article and will be the contact person for the Finance Committee and the Board of Selectmen, and for the Planning Board if the petition is a zoning issue.

**Date Received:** The date received will be stamped on the petition when it is received by the Town Administrator and forwarded to the Town Clerk for certification.



## **BOARD OF SELECTMEN POLICY:**

### **IV. PETITIONERS' ACCESS TO TOWN COUNSEL**

Subject to these guidelines, Town Counsel is available to consult with registered voters who have been identified as the lead petitioner and desire to submit or who have submitted an article for consideration at an annual or special town meeting, as a "petitioner's article" without sponsorship of a town board.

1. Town Counsel's consultation is limited to (1) suggesting language that reflects the petitioner's legislative intent in presenting articles for insertion in the warrant; (2) suggesting language to insure compliance with procedural requirements; and (3) preparing the main motion for Town Meeting. Town Counsel will not render written opinions or give advice to petitioners about substantive legal issues relative to their articles.
2. Prior to the deadline for filing articles for insertion in the warrant for the Annual Town Meeting, the Selectmen will conduct a "petitioners' workshop" at which prospective petitioners may ask general questions. The Town Administrator shall set reasonable limits on the scope of lead petitioner inquiries and the time allocated for consultation with Town Counsel.
3. Town Counsel may decline to assist the lead petitioner if Town Counsel states in writing that such assistance would present Town Counsel with an actual conflict of interest, and gives the basis for the conflict of interest. The Town Administrator may assign Special Counsel to assist the lead petitioner as appropriate.
4. Access to Town Counsel during Town Meeting sessions is not permitted.

*Revised July 27, 2015*

## 8. Liquor License Hearing

DATE: January 8, 2018  
TO: Board of Selectmen  
FROM: David Porter, Executive Assistant to the Town Administrator and Board of Selectmen  
RE: Application of Dudley Chateau LLC for a new annual on-premises all alcoholic beverages license

---

### REQUESTED ACTION:

HOLD A PUBLIC HEARING ON THE DUDLEY CHATEAU LLC APPLICATION AND POTENTIALLY VOTE TO APPROVE THE LICENSE.

**MOTION: I move to approve the application of Mandy Phillips, owner of Dudley Chateau LLC, for a new annual on-premises liquor license to sell all alcoholic beverages at the Dudley Chateau restaurant located at 20 Crest Road.**

### BACKGROUND

On December 18, we received in the Selectmen's Office the application of Mandy Phillips, owner of Dudley Chateau LLC, for a new liquor license to sell all alcoholic beverages at the Dudley Chateau restaurant located at 20 Crest Road. The Dudley Chateau has operated for many years at its current location. Ongoing civil litigation between former owner Dennis Sullivan and current owner Mandy Phillips prevented the Board of Selectmen from renewing the liquor license held by Mr. Sullivan, which expired on December 31, 2017. Ms. Phillips' application has been reviewed by Town Counsel who believes that the litigation does not prevent the Board of Selectmen from considering Ms. Phillips' application. The purpose of this hearing is to determine whether to grant Ms. Phillips the same type of liquor license previously held by Mr. Sullivan.

### Legal Notice

The Town posted legal notice of tonight's hearing in the December 28 Wayland-Weston *Town Crier* newspaper. The applicant received from the Wayland Assessor's Office a list of the abutters – properties located within 300 feet of the Dudley Chateau – and sent a copy of the legal notice to the owners of each property. The applicant provided registered mail receipts which I have compared against the Assessor's list. I worked with the Wayland Assessor's Office to confirm that no churches, hospitals, or schools are within 500 feet of the Dudley Chateau. Accordingly, a more rigorous notification process is not required.

### Documents

Mandy Phillips, owner of Dudley Chateau, LLC, submitted all the required documents. A copy of her application and floor plan are included in this week's packet. Sensitive personal information such as social security numbers and home addresses are redacted from the packet.

### Comments from the Police Chief and Fire Chief

Chief Swanick reviewed the Dudley Chateau application and recommends approval. He states in his letter, included in your packet, that Ms. Phillips has "done a good job keeping the servers certified in alcohol intervention methods." The Dudley Chateau passed a compliance check on December 21, 2017 and has not had any liquor infractions since 2009. The Fire Chief confirmed in November that the Dudley Chateau meets all the requirements for fire and life safety under his jurisdiction.

### Wayland's Liquor License Quota

Category	Quota	In-use
On-premise All Alcoholic	14	11
On-premise Wine and Malt	5	1
Off-premise All Alcoholic	4	4
Off-premise Wine and Malt	5	2



## PROCEDURE FOR LIQUOR LICENSE HEARING

1. Open the hearing by declaration of the Chair

*I declare this hearing open for the purpose of considering the application of Mandy Phillips, owner of Dudley Chateau LLC, for an annual license to serve on-premises all alcoholic beverages at the Dudley Chateau restaurant located at 2 Crest Road.*

2. Read the notice published in the December 28, 2017 *Town Crier* newspaper. (attached)

*Notice is hereby given that the Board of Selectmen will hold a Public Hearing on Monday, January 8, 2018 at 7:45 p.m. at the Wayland Town Building, 41 Cochrane Road, Wayland, MA 01778, on the application filed by Dudley Chateau LLC, for a new on-premises annual all alcoholic beverages license at 20 Crest Road, Wayland, MA 01778.*

3. State that the formal rules of evidence and other court procedures do not apply to public hearings before the Board of Selectmen. The Board expects the prospective licensee and any members of the public who comment to present credible and reliable information in a clear and concise manner.

4. Explain the order of presentation and comment

- The applicant or its counsel will be invited to describe its business and the reason(s) it is applying for a license to sell alcoholic beverages
- Members of the Board of Selectmen will have the opportunity to question the applicant
- Members of the public will be allowed to comment on the application
- The applicant or its counsel will be invited to summarize the case for approving the license application
- The Chair will close the hearing. At the close of the hearing, the Board will take the matter under advisement and make a decision at a later meeting, or it will deliberate and make a decision tonight.

5. Allow the applicant or its counsel to describe its business and the reason(s) it is applying for a license to sell alcoholic beverages.

6. Allow Members of the Board of Selectmen to question the applicant.

7. Allow members of the public to comment on the application.

8. Ask the licensee or its counsel to summarize the licensee's case.

9. Close the hearing by declaration of the Chair

10. Deliberate, consult with the Town Administrator and Town Counsel, and [if you choose] vote on a decision.

*I move to approve the application of Mandy Phillips, owner of Dudley Chateau LLC, for a new on-premises annual liquor license to sell all alcoholic beverages at the Dudley Chateau restaurant located at 20 Crest Road.*



**Book Buddies** (Wednesday, Jan. 10 from 3 to 3:45 p.m.): This month's book is "Spark" by Kallie George. We will read the book, enjoy a snack, and make a craft. For children in grades K to 2 with parent/caregiver. This program is co-run with the Wayland Children and Parents Association.

**Steam Team: Fairytale Challenge** (Wednesday, Jan. 17 from 3 to 3:45 p.m.): Can you design a slide to help Rapunzel escape her tower? Can you build a house for the three plgs that the wolf can't blow down? Can you make a carpet fly? Join us for an afternoon of creativity and collaboration with fairy tale-inspired STEAM activities. Led by librarian Carly Moniz. For ages 5 and up.

**Parent/Child Book Group** (Wednesday, Jan. 17 from 7 to 8 p.m.): This book club is for fourth- and fifth-graders with a parent. This month's book is "The War That Saved My Life" by Kimberly Bradley.

...recorded with the Middlesex County (Southern District) Registry of Deeds in Book 26550, Page 350. See also deed recorded in said Registry of Deeds in Book 29042, Page 355.

The property will be sold subject to the redemption rights in favor of the Internal Revenue Service by virtue of the tax lien(s) recorded in Middlesex County (Southern District) Registry of Deeds in Book 64939, Page 364; Book 64939, Page 365; Book 65358, Page 259 and Book 67145, Page 447.

The premises will be sold subject to any and all unpaid taxes and other municipal assessments and liens, and subject to prior liens or other enforceable encumbrances of record entitled to precedence over this mortgage, and subject to and with the benefit of all easements, restrictions, reservations and conditions of record and subject to all tenancies and/or rights of parties in possession.

Terms of the Sale: Cash, cashier's or certified check in the sum of \$10,000.00 as a deposit must be shown at the time and place of the sale in order to qualify as a bidder (the mortgage holder and its designee(s) are exempt from this requirement); high bidder to sign written Memorandum of Sale upon acceptance of bid; balance of purchase price payable in cash or by certified check in thirty (30) days from the date of the sale at the offices of mortgagee's attorney, Korde & Associates, P.C., 900 Chelmsford Street, Suite 3102, Lowell, MA 01851 or such other time as may be designated by mortgagee. The description for the premises contained in said mortgage shall control in the event of a typographical error in this publication.

Other terms to be announced at the sale.

Sterling National Bank successor by merger to Aetoria Bank  
Korde & Associates, P.C.  
900 Chelmsford Street  
Suite 3102  
Lowell, MA 01851  
(978) 256-1500  
Oliver Jr., Shelton J., 17-028889

AD#13639956  
WC 12/7, 2/14, 12/21, 12/28/17

...to Massachusetts General Laws, Chapter 131, Section 40, Massachusetts Wetlands Protection Act, the Weston Conservation Commission will hold a Public Hearing on **Tues., Jan. 9, 2018** at 8:30 P.M. in the Weston Town Hall, on a Request for Determination of Applicability filed by K. Kielb for improvements to an existing single family house at 390 North Ave. The work is proposed in the 100-foot buffer zone. The application is on file and is available for public inspection in the Conservation Office.

AD#13645014  
WC 12/28/17

**SEL/20 CREST RD.  
LEGAL NOTICE**

Notice is hereby given that the Board of Selectmen will hold a Public Hearing on Monday, January 8, 2018 at 7:45 p.m. at the Wayland Town Building, 411 Cochituate Road, Wayland, MA 01778, on the application filed by Dudley Chateau LLC for a new on-premises annual all alcoholic beverages license at 20 Crest Road, Wayland, MA 01778.

Board of Selectmen  
Town of Wayland

AD#13634881  
WC 12/28/17

Whether you're looking for  
the right job or looking to fill a job  
Wicked Local Jobs will get the job done.

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wickedlocaljobs.com

...that make placement health care? Who gets the best

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# WAYLAND POLICE DEPARTMENT

WAYLAND, MASSACHUSETTS 01778



**PATRICK SWANICK**  
CHIEF OF POLICE

## Memorandum

01/03/2018

To: David Porter

From: Patrick Swanick, Chief of Police

Subject: Dudley Chateau Liquor Application

---

Mandy and Ken Phillips have been operating the Dudley Chateau since 2010. They have made many improvements to the kitchen and have worked to make the Dudley Chateau a successful business. Mandy Phillips has done a good job keeping the servers certified in alcohol intervention methods. Problems associated with the Dudley Chateau have greatly decreased under their management.

During the last three years the Wayland Police have called to the business a total of 6 times.

1. 2/28/2015 Parking complaint
2. 11/7/2015 Noise complaint (2 people saying goodnight)
3. 3/31/2016 Breaking and Entering (victim)
4. 5/31/2016 Alarm
5. 12/27/2016 Noise complaint (2 people in parking lot)
6. 12/21/2017 Parking complaint – possible overcrowding

The most recent incident (12/21/2017) was a parking complaint on Dudley Road. Illegally parked vehicles prohibited a fire truck from being able to drive down the street. Mandy Phillips worked with the responding officers to locate the vehicles owners and remove the offending vehicles. It was determined that parking violations were committed by patrons of the restaurant and visitors to residential neighbors. In the responding officer's report, he

estimated that there were approximately 100 patrons inside (the officer did not conduct an actual head count). The occupancy total for the building is 85 persons.

I contacted Ms. Phillips and asked her to contact me about the possible overcrowding. Ms. Phillips immediately contacted me. She stated that the business was busy and believes that she did not exceed their seating capacity limits.

Ms. Phillips pointed out that on nights when she anticipated large crowds she does hire detail officers to deal with crowd control.

I believe that Mandy and Ken Phillips have worked to make the Dudley Chateau a successful business in Wayland. They have made investments in the kitchen and in training employees. Any time that I have had to contact them, they have been quick to return my calls, and have been responsive to any suggestions.

On 12/21/2017 the Wayland Police conducted an alcohol compliance check at the Chateau Dudley. The Chateau Dudley passed the compliance check and did not serve alcohol to minors. The Chateau Dudley has passed all recent compliance checks and has not had any liquor infractions since 2009.

I recommend that Mandy and Ken Phillips be granted a Liquor License.





The Commonwealth of Massachusetts  
 Alcoholic Beverages Control Commission  
 239 Causeway Street  
 Boston, MA 02114  
[www.mass.gov/abcc](http://www.mass.gov/abcc)

RECEIVED  
 DEC 18 2017

APPLICATION FOR A RETAIL ALCOHOLIC BEVERAGES LICENSE

The following documentation is required as a part of your retail license application.

ABCC investigators reserve the right to request additional documents as a part of their investigation.

- Monetary Transmittal Form with \$200 fee  
 You can PAY ONLINE or include a \$200 check made out to the ABCC
- Retail Application (this packet)
- Beneficial Interest - Individual Form  
 For any individual with direct or indirect interest in the proposed licensee
- Beneficial Interest - Organization Form  
 For any organization with direct or indirect interest in the proposed licensee
- CORJ Authorization Form  
 For the manager of record AND any individual with direct or indirect interest in the proposed licensee. This form must be notarized with a stamp\*
- Proof of Citizenship for proposed manager of record  
 Passport, US Birth Certificate, Naturalization Papers, Voter Registration
- Vote of the Corporate Board  
 A corporate vote to apply for a new / transfer of license and a corporate vote to appointing the manager of record, signed by an authorized signatory for the proposed licensed entity
- Business Structure Documents  
 If Proposed Licensee is applying as:
  - A Corporation or LLC - Articles of Organization from the Secretary of the Commonwealth
  - A Partnership - Partnership Agreement
  - Sole Proprietor - Business Certificate
- Purchase and Sale Documentation  
 Required if this application is for the transfer of an existing retail alcoholic beverages license
- Supporting Financial Documents  
 Documentation supporting any loans or financing, including pledge documents, if applicable
- Floor Plan  
 Detailed Floor Plan showing square footage, entrances and exits and rooms
- Lease  
 Signed by proposed licensee and landlord. If lease is contingent upon receiving this license, a copy of the unsigned lease along with a letter of intent to lease, signed by licensee and landlord
- Additional Documents Required by the Local Licensing Authority

\* Excludes Officers and Directors of Non-Profit Clubs

*The Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
239 Causeway Street  
Boston, MA 02114  
[www.mass.gov/abcc](http://www.mass.gov/abcc)*

**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION  
MONETARY TRANSMITTAL FORM**

APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL LICENSING AUTHORITY.

ECRT CODE: RETA

CHECK PAYABLE TO ABCC OR COMMONWEALTH OF MA: \$200.00

(CHECK MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL)

CHECK NUMBER

IF USED EPAY, CONFIRMATION NUMBER

A.B.C.C. LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

LICENSEE NAME

ADDRESS

CITY/TOWN

STATE

ZIP CODE

**TRANSACTION TYPE (Please check all relevant transactions):**

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Cordials/Liqueurs Permit       | <input type="checkbox"/> New Officer/Director | <input type="checkbox"/> Transfer of License        |
| <input type="checkbox"/> Change Corporate Name           | <input type="checkbox"/> Issuance of Stock              | <input type="checkbox"/> New Stockholder      | <input type="checkbox"/> Transfer of Stock          |
| <input type="checkbox"/> Change of License Type          | <input type="checkbox"/> Management/Operating Agreement | <input type="checkbox"/> Pledge of Stock      | <input type="checkbox"/> Wine & Malt to All Alcohol |
| <input type="checkbox"/> Change of Location              | <input type="checkbox"/> More than (3) \$15             | <input type="checkbox"/> Pledge of License    | <input type="checkbox"/> 6-Day to 7-Day License     |
| <input type="checkbox"/> Change of Manager               | <input checked="" type="checkbox"/> New License         | <input type="checkbox"/> Seasonal to Annual   |   |
| <input type="checkbox"/> Other                           | <input type="text"/>                                    |   |   |

THE LOCAL LICENSING AUTHORITY MUST MAIL THIS TRANSMITTAL FORM ALONG WITH THE CHECK, COMPLETED APPLICATION, AND SUPPORTING DOCUMENTS TO:

**ALCOHOLIC BEVERAGES CONTROL COMMISSION  
239 CAUSEWAY STREET  
BOSTON, MA 02241-3396**

**Your Payment Has Been Approved**

**Customer Name** Dudley Chateau, LLC

**License Type** Retail License Filing Fee

**Method Of Payment** Checking

**Bank Account Number** \*\*\*\*6739

**Your Confirmation Number Is 349004.**

[Exit](#)

[Make Another Payment](#)

[Print](#)





The Commonwealth of Massachusetts  
 Alcoholic Beverages Control Commission  
 239 Causeway Street  
 Boston, MA 02114  
[www.mass.gov/abcc](http://www.mass.gov/abcc)

APPLICATION FOR A RETAIL ALCOHOLIC BEVERAGES LICENSE

Please complete this entire application, leaving no fields blank. If field does not apply to your situation, please write N/A.

1. NAME OF PROPOSED LICENSEE (Business Contact)

Dudley Chateau, LLC

This is the corporation or LLC which will hold the license, not the individual submitting this application. If you are applying for this license as a sole proprietor, not an LLC, corporation or other legal entity, you may enter your personal name here.

2. RETAIL APPLICATION INFORMATION

There are two ways to obtain an alcoholic beverages license in the Commonwealth of Massachusetts, either by obtaining an existing license through a transfer or by applying for a new license.

Are you applying for a new license  New  Transfer or the transfer of an existing license?

If transferring, please indicate the current ABCC license number you are seeking to obtain:

If applying for a new license, are you applying for this license pursuant to special legislation?

If transferring, by what method is the license being transferred?

Yes  No

Chapter

Acts of

3. LICENSE INFORMATION / QUOTA CHECK

City/Town

Wayland

On/Off-Premises

On-Premises

TYPE

§12 Restaurant

CATEGORY

All Alcoholic Beverages

CLASS

Annual

4. APPLICATION CONTACT

The application contact is required and is the person who will be contacted with any questions regarding this application.

First Name:

Mandy

Middle:

L

Last Name:

Phillips

Title:

Owner

Primary Phone:

[REDACTED]

Email:

[REDACTED]

5. OWNERSHIP

Please list all individuals or entities with a direct or indirect, beneficial or financial interest in this license.

An individual or entity has a direct beneficial interest in a license when the individual or entity owns or controls any part of the license. For example, if John Smith owns Smith LLC, a licensee, John Smith has a direct beneficial interest in the license.

An individual or entity has an indirect beneficial interest if the individual or entity has 1) any ownership interest in the license through an intermediary, no matter how removed from direct ownership, 2) any form of control over part of a license no matter how attenuated, or 3) otherwise benefits in any way from the license's operation. For example, Jane Doe owns Doe Holding Company Inc., which is a shareholder of Doe LLC, the license holder. Jane Doe has an indirect interest in the license.

A. All individuals listed below are required to complete a Beneficial Interest Contact - Individual form.

B. All entities listed below are required to complete a Beneficial Interest Contact - Organization form.

C. Any individual with any ownership in this license and/or the proposed manager of record must complete a COBI Release Form.

Name	Title / Position	% Owned	Other Beneficial Interest
Mandy L. Phillips	Other	100	

For additional space, please use next page

**APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE**

**5. OWNERSHIP** (continued)

Name	Title / Position	% Owned	Other Beneficial Interest

**6. PREMISES INFORMATION**

Please enter the address where the alcoholic beverages are sold.

**Premises Address**

Street Number:  Street Name:  Unit:

City/Town:  State:  Zip Code:

Country:

**Description of Premises**

Please provide a complete description of the premises, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage.

Floor Number	Square Footage	Number of Rooms
1	1349	2
1/2	750	2
FBM	300	1
BAS	1049	1
Utility	110	1
Attic	299	1

Patio/Deck/Outdoor Area Total Square Footage

Indoor Area Total Square Footage

Number of Entrances

Number of Exits

Proposed Seating Capacity

Proposed Occupancy

**Occupancy of Premises**

Please complete all fields in this section. Documentation showing proof of legal occupancy of the premises is required.

Please indicate by what right the applicant has to occupy the premises  Landlord Name

Lease Beginning Term  Landlord Phone

Lease Ending Term  Landlord Address

Rent per Month

Rent per Year

If leasing or renting the premises, a signed copy of the lease is required.

If the lease is contingent on the approval of this license, and a signed lease is not available, a copy of the unsigned lease and a letter of intent to lease, signed by the applicant and the landlord, is required.

Please indicate if the terms of the lease include payments based on the sale of alcohol:  Yes  No



**APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE**

**7. BUSINESS CONTACT**

The Business Contact is the proposed licensee. If you are applying as a Sole Proprietor (the license will be held by an individual, not a business), you should use your own name as the entity name.

\* Please see last page of application for required documents based on Legal Structure \*

Entity Name:  FEIN:

DBA:  Fax Number:

Primary Phone:  Email:

Alternative Phone:  Legal Structure of Entity

**Business Address (Corporate Headquarters)**  Check here if your Business Address is the same as your Premises Address

Street Number:  Street Name:

City/Town:  State:

Zip Code:  Country:

**Mailing Address**  Check here if your Mailing Address is the same as your Premises Address

Street Number:  Street Name:

City/Town:  State:

Zip Code:  Country:

Is the Entity a Massachusetts Corporation?  Yes  No

If no, is the Entity registered to do business in Massachusetts?  Yes  No

If no, state of incorporation

**Other Beneficial Interest**

Does the proposed licensee have a beneficial interest in any other Massachusetts Alcoholic Beverages Licenses?  Yes  No *if yes, please complete the following table.*

Name of License	Type of License	License Number	Premises Address
Dudley Chateau of Cochituate, Inc	§12 On Premises	0005-RS-1340	20 Crest Rd, Wayland, MA 01778

**Prior Disciplinary Action:**

Has any alcoholic beverages license owned by the proposed licensee ever been disciplined for an alcohol related violation?

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation



**APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE**

**8. MANAGER CONTACT**

The Manager Contact is required and is the individual who will have day-to-day, operational control over the liquor license.

Salutation  First Name  Middle Name  Last Name  Suffix

Social Security Number  Date of Birth

Primary Phone:  Email:

Mobile Phone:  Place of Employment

Alternative Phone:  Fax Number

**Citizenship / Residency / Background Information of Proposed Manager**

Are you a U.S. Citizen?  Yes  No

Do you have direct, indirect, or financial interest in this license?  Yes  No

Have you ever been convicted of a state, federal, or military crime?  Yes  No  
 If yes, attach an affidavit that lists your convictions with an explanation for each

If yes, percentage of interest

Have you ever been Manager of Record of a license to sell alcoholic beverages?  Yes  No

If yes, please list the licenses for which you are the current or proposed manager:

If yes, please indicate type of interest (check all that apply):

Officer  Sole Proprietor  
 Stockholder  LLC Manager  
 LLC Member  Director  
 Partner  Landlord  
 Contractual  Revenue Sharing  
 Management Agreement  Other

Please indicate how many hours per week you intend to be on the licensed premises

**Employment Information of Proposed Manager**

Please provide your employment history for the past 10 years

Date(s)	Position	Employer	Address	Phone
2007 to Present	Waitress	Dudley Chateau	20 Crest Rd, Wayland, MA 01778	5086550010

**Prior Disciplinary Action of Proposed Manager**

Have you ever been involved directly or indirectly in an alcoholic beverages license that was subject to disciplinary action? If yes, please complete the following:

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

**APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE**

**9. FINANCIAL INFORMATION**

Please provide information about associated costs of this license.

**Associated Costs**

A. Purchase Price for Building/Land	\$250,000
B. Purchase Price for any Business Assets	\$100,000
C. Costs of Renovations/Construction	
D. Purchase Price of Inventory	
E. Initial Start-Up Costs	
F. Other (Please specify)	
G. Total Cost (Add lines A-F)	\$350,000

Please note, the total amount of Cash Investment (top right table) plus the total amount of Financing (bottom right table) must be equal to or greater than the Total Cost (line G above).

Please provide information about the sources of cash and/or financing for this transaction

**Source of Cash Investment**

Name of Contributor	Amount of Contribution
Mandy L. Phillips	\$100,000
<b>Total:</b>	<b>\$100,000</b>

**Source of Financing**

Name of Lender	Amount	Does the lender hold an interest in any MA alcoholic beverages licenses?	If yes, please provide ABCC license number of lender
Eagle Bank	250,000	No	
<b>Total:</b>			<b>\$250,000</b>

**10. PLEDGE INFORMATION**

Are you seeking approval for a pledge?  Yes  No

Please indicate what you are seeking to pledge (check all that apply)

License  Stock / Beneficial Interest  Inventory

To whom is the pledge is being made:

Does the lender have a beneficial interest in this license?  Yes  No

Does the lease require a pledge of this license?  Yes  No



**APPLICANT'S STATEMENT**

I, Mandy L. Phillips the:  sole proprietor;  partner;  corporate principal;  LLC/LLP member  
Authorized Signatory

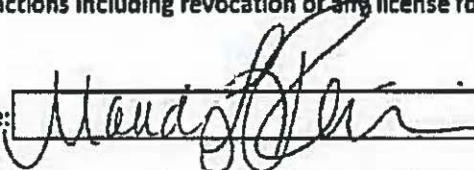
of Dudley Chateau, LLC, hereby submit this application for New On Premise All Alcohol Liquor License  
Name of the Entity/Corporation Transaction(s) you are applying for

(hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statement and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises does not violate any requirement of the ABCC or other state law or local ordinances;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the Application information as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of, the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.

Signature:



Date:

12/12/2017

Title:

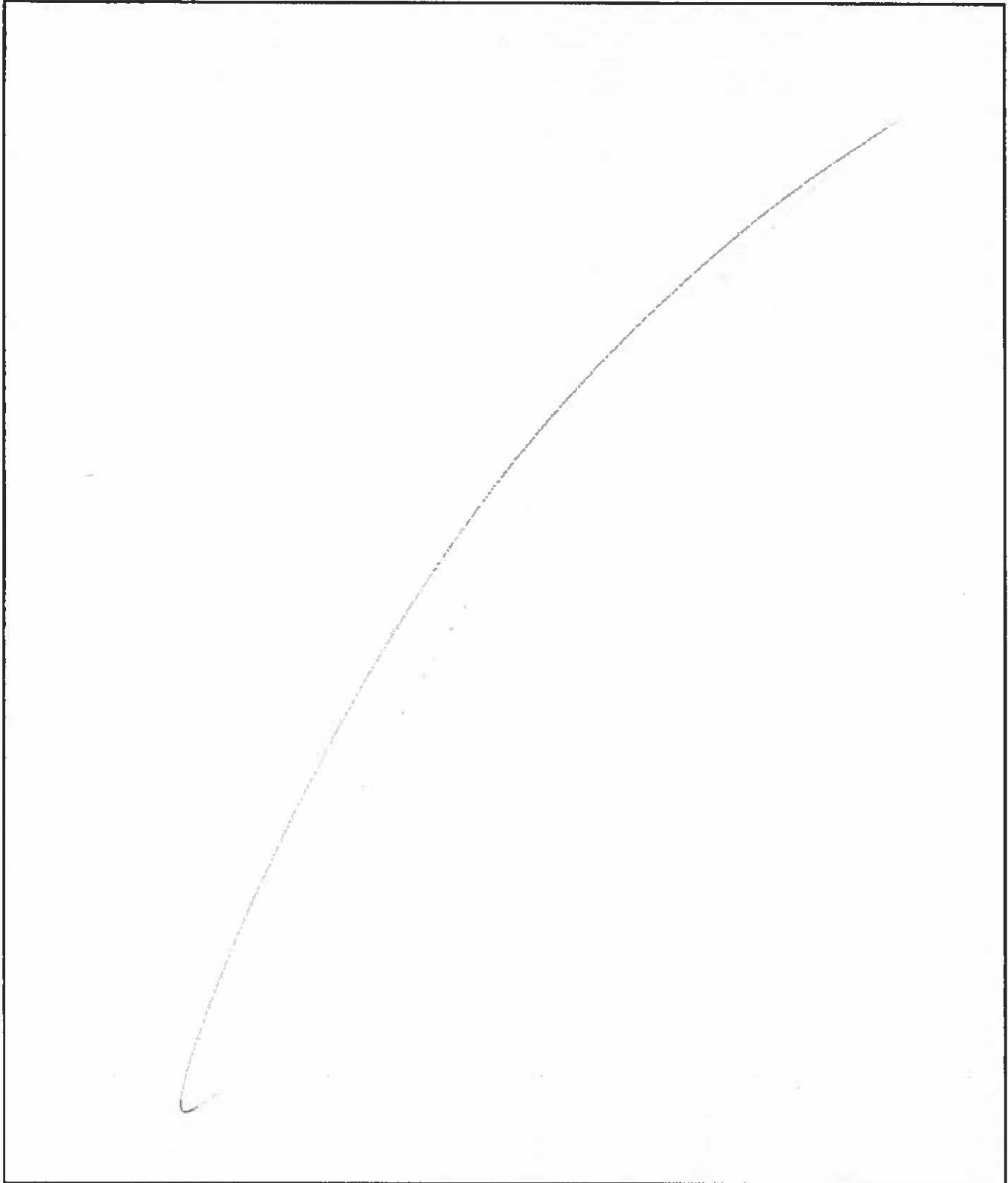
Member



**ADDITIONAL SPACE**

The following space is for any additional information you wish to supply or to clarify an answer you supplied in the application.

If referencing the application, please be sure to include the number of the question to which you are referring.

A large, empty rectangular box with a black border, intended for providing additional information or clarifications. The box is currently blank, with a faint, curved line visible near the bottom left corner, possibly a stray mark or a very light pencil line.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

**BENEFICIAL INTEREST CONTACT - Individual** (Formerly known as a Personal Information Form)

Please complete a Beneficial Interest - Individual sheet for all individual(s) who have a direct or indirect beneficial interest, with or without ownership, in this license. This includes people with a financial interest and people without financial interest (i.e. board of directors for not-for-profit clubs). All individuals with direct or indirect financial interest must also submit a CORI Authorization Form.

An individual with direct beneficial interest is defined as someone who has interest directly in the proposed licensee. For example, if ABC Inc is the proposed licensee, all individuals with interest in ABC Inc are considered to have direct beneficial interest in ABC Inc (the proposed licensee).

An individual with indirect beneficial interest is defined as someone who has ownership in a parent level company of the proposed licensee. For example, if ABC Inc is the proposed licensee and is 100% owned by XYZ Inc, all individuals with interest in XYZ Inc are considered to have an indirect beneficial interest in ABC Inc (the proposed licensee).

Salutation  First Name  Middle Name  Last Name  Suffix

Title:  Social Security Number  Date of Birth

Primary Phone:  Email:

Mobile Phone:  Fax Number

Alternative Phone:

**Business Address**

Street Number:  Street Name:

City/Town:  State:

Zip Code:  Country:

**Mailing Address**

Check here if your Mailing Address is the same as your Business Address

Street Number:  Street Name:

City/Town:  State:

Zip Code:  Country:

**Types of Interest (select all that apply)**

- Contractual
- Director
- Landlord
- LLC Manager
- LLC Member
- Management Agreement
- Officer
- Partner
- Revenue Sharing
- Sole Proprietor
- Stockholder
- Other

**Citizenship / Residency Information**

Are you a U.S. Citizen?  Yes  No      Are you a Massachusetts Resident?  Yes  No

**Criminal History**

Have you ever been convicted of a state, federal, or military crime?  Yes  No      If yes, please provide an affidavit explaining the charges.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

**BENEFICIAL INTEREST CONTACT - Individual (continued)**

**Ownership / Interest**

Using the definition above, do you hold a direct  Direct  Indirect or indirect interest in the proposed licensee?

If you hold a direct beneficial interest in the proposed licensee, please list the % of interest you hold. 100

If you hold an indirect beneficial interest in this license, please complete the Ownership / Interest Table below.

**Ownership / Interest**

If you hold an indirect interest in the proposed licensee, please list the organization(s) you hold a direct interest in which, in turn, hold a direct or indirect interest in the proposed licensee. These generally include parent companies, holding companies, trusts, etc. A Beneficial Interest - Organization Form will need to be completed for each entity listed below.

Name of Beneficial Interest - Organization	FEIN

**Other Beneficial Interest**

List any indirect or indirect beneficial or financial interest you have in any other Massachusetts Alcoholic Beverages License(s).

Name of License	Type of License	License Number	Premises Address

**Familial Beneficial Interest**

Does any member of your immediate family have ownership interest in any other Massachusetts Alcoholic Beverages Licenses? Immediate family includes parents, siblings, spouse and spouse's parents. Please list below.

Relationship to You	ABCC License Number	Type of Interest (choose primary function)	Percentage of Interest

**Prior Disciplinary Action**

Have you ever been involved directly or indirectly in an alcoholic beverages license that was subject to disciplinary action? If yes, please complete the following:

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation
2010	Dudley Chateau of Cochituate	MA	Wayland	unknown





Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
239 Causeway Street, First Floor  
Boston, MA 02114

DEBORAH B. GOLDBERG  
TREASURER AND RECEIVER GENERAL

**CORI REQUEST FORM**

JEAN M. LORIZIO, ESQ.  
CHAIRMAN

The Alcoholic Beverages Control Commission ("ABCC") has been certified by the Criminal History Systems Board to access conviction and pending Criminal Offender Record Information ("CORI"). For the purpose of approving each shareholder, owner, licensee or applicant for an alcoholic beverages license, I understand that a criminal record check will be conducted on me, pursuant to the above. The information below is correct to the best of my knowledge.

**ABCC LICENSE INFORMATION**

ABCC NUMBER: <small>IF DISTING. LICENSED</small>		LICENSEE NAME:	Dudley Chateau, LLC	CITY/TOWN:	Wayland, MA
---	--	----------------	---------------------	------------	-------------

**APPLICANT INFORMATION**

LAST NAME:	Phillips	FIRST NAME:	Mandy	MIDDLE NAME:	Lee
MAIDEN NAME OR ALIAS (IF APPLICABLE):		PLACE OF BIRTH:			
DATE OF BIRTH:		SSN:		ID THEFT INDEX PIN (IF APPLICABLE):	
MOTHER'S MAIDEN NAME:		DRIVER'S LICENSE #:		STATE LIC. ISSUED:	Massachusetts
GENDER:	FEMALE	HEIGHT:		WEIGHT:	
EYE COLOR:					
CURRENT ADDRESS:					
CITY/TOWN:		STATE:	MA	ZIP:	
FORMER ADDRESS:	None				
CITY/TOWN:		STATE:		ZIP:	

**PRINT AND SIGN**

PRINTED NAME:	Mandy L. Phillips	APPLICANT/EMPLOYEE SIGNATURE:	
---------------	-------------------	-------------------------------	--

**NOTARY INFORMATION**

On this 13th day of December 2017 before me, the undersigned notary public, personally appeared Mandy L. Phillips  
(name of document signer), proved to me through satisfactory evidence of identification, which were valid MA DL  
to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

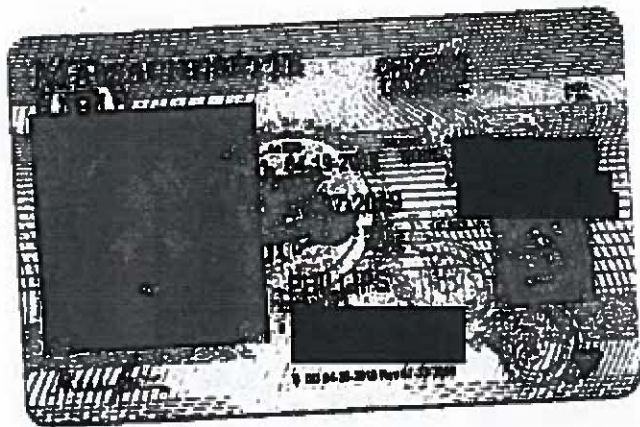
NOTARY

DANIELLE A. WOODYSHEK  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
July 5, 2024



**DIVISION USE ONLY**

REQUESTED BY:	
<small>IDENTIFICATION OF CORP-EMPLOYEED EMPLOYEES</small>	
<small>The DCB Identity Theft Index PIN Number is to be completed by those applicants that have been issued an Identity Theft PIN Number by the DCB. Certified agents are required to provide all applicants the opportunity to include this information to ensure the accuracy of the CORI request process. ALL CORI request forms that include this field are required to be submitted to the DCB via mail or by fax to (617) 890-4414.</small>	



**MA**

**WWW.FIRSTCOUNTRY  
REALTY.COM**

**Do not write over this stamp  
or stamp out line.**

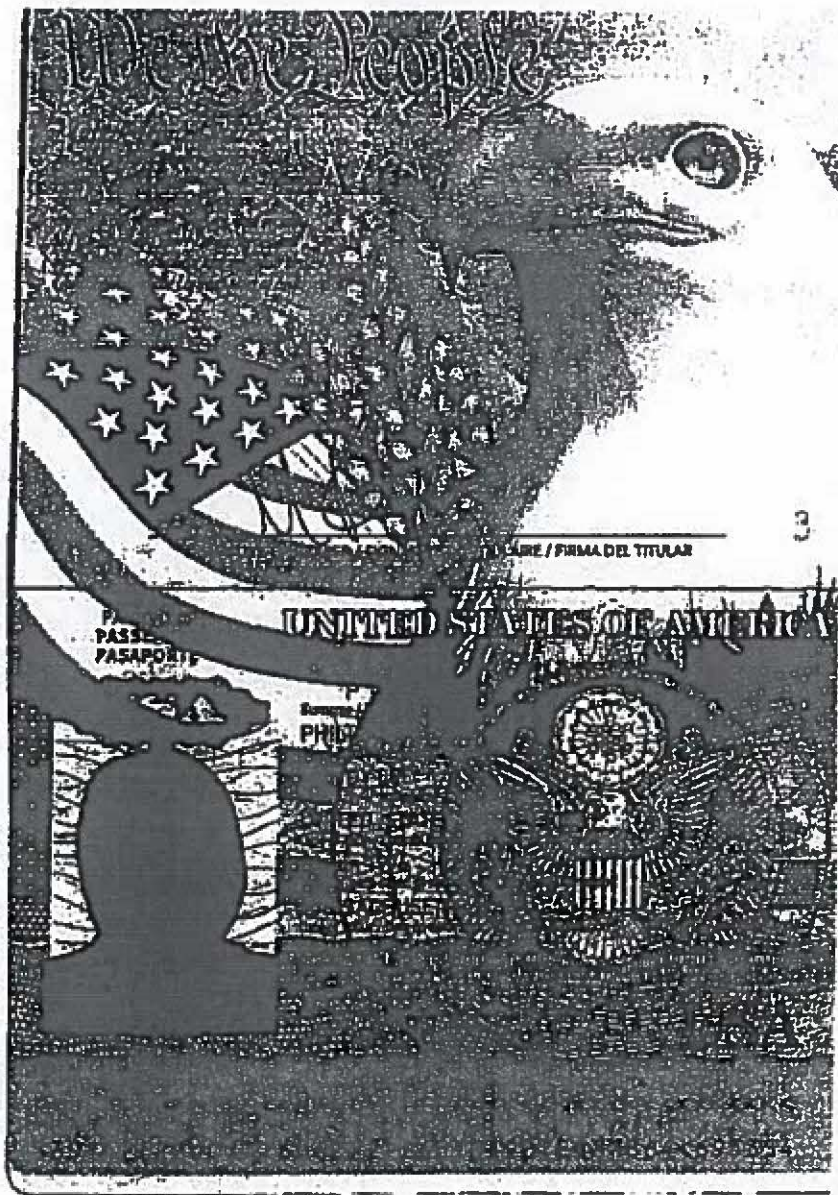
**REMARKS -**  
NONE

**REMARKS -**  
NONE

**COUNCIL OF REALTORS, REAL ESTATE ASSOCIATION, INC.**





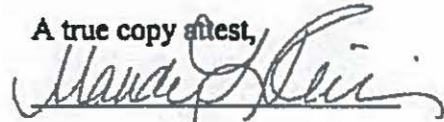


**CORPORATE VOTE**  
**OF**  
**DUDLEY CHATEAU, LLC**

**DATE: December 15, 2017**

I, Mandy L. Phillips, as sole manager and 100% owner of Dudley Chateau, LLC, hereby authorize the LLC and its manager to perform any and all actions, including signing all necessary documents, to apply for a new All Alcoholic Beverages Restaurant on premises license via the Town of Wayland and the Commonwealth of Massachusetts ABCC.

A true copy attest,



**Mandy L. Phillips**  
**Owner**  
**Manager**



**The Commonwealth of Massachusetts**  
**William Francis Galvin**

Minimum Fee: \$500.00

Secretary of the Commonwealth, Corporations Division  
 One Ashburton Place, 17th floor  
 Boston, MA 02108-1512  
 Telephone: (617) 727-9640

**Annual Report**

(General Laws, Chapter 156C)

Identification Number: [REDACTED]

Annual Report Filing Year: 2017

1.a. Exact name of the limited liability company: DUDLEY CHATEAU LLC

1.b. The exact name of the limited liability company as amended, is: DUDLEY CHATEAU LLC

2a. Location of its principal office:

No. and Street: 20 CREST ROAD  
 City or Town: WAYLAND State: MA Zip: 01778 Country: USA

2b. Street address of the office in the Commonwealth at which the records will be maintained:

No. and Street: 20 CREST ROAD  
 City or Town: WAYLAND State: MA Zip: 01778 Country: USA

3. The general character of business, and if the limited liability company is organized to render professional service, the service to be rendered:

RESTAURANT/BAR

4. The latest date of dissolution, if specified:

5. Name and address of the Resident Agent:

Name: KEN PHILLIPS  
 No. and Street: [REDACTED]  
 City or Town: NATICK State: MA Zip: 01760 Country: USA

6. The name and business address of each manager, if any:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
MANAGER	MANDY L PHILLIPS	20 CREST ROAD WAYLAND, MA 01778 USA

7. The name and business address of the person(s) in addition to the manager(s), authorized to execute documents to be filed with the Corporations Division, and at least one person shall be named if there are no managers.

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
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<b>SOC SIGNATORY</b>	<b>MANDY L PHILLIPS</b>	<b>20 CREST RD WAYLAND, MA 01778 USA</b>
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**8. The name and business address of the person(s) authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property:**

<b>Title</b>	<b>Individual Name First, Middle, Last, Suffix</b>	<b>Address (no PO Box) Address, City or Town, State, Zip Code</b>
<b>REAL PROPERTY</b>	<b>MANDY L PHILLIPS</b>	<b>20 CREST ROAD WAYLAND, MA 01778 USA</b>

**9. Additional matters:**

**SIGNED UNDER THE PENALTIES OF PERJURY, this 16 Day of June, 2017,  
KEN PHILLIPS , Signature of Authorized Signatory.**

**© 2001 - 2017 Commonwealth of Massachusetts  
All Rights Reserved**

**THE COMMONWEALTH OF MASSACHUSETTS**

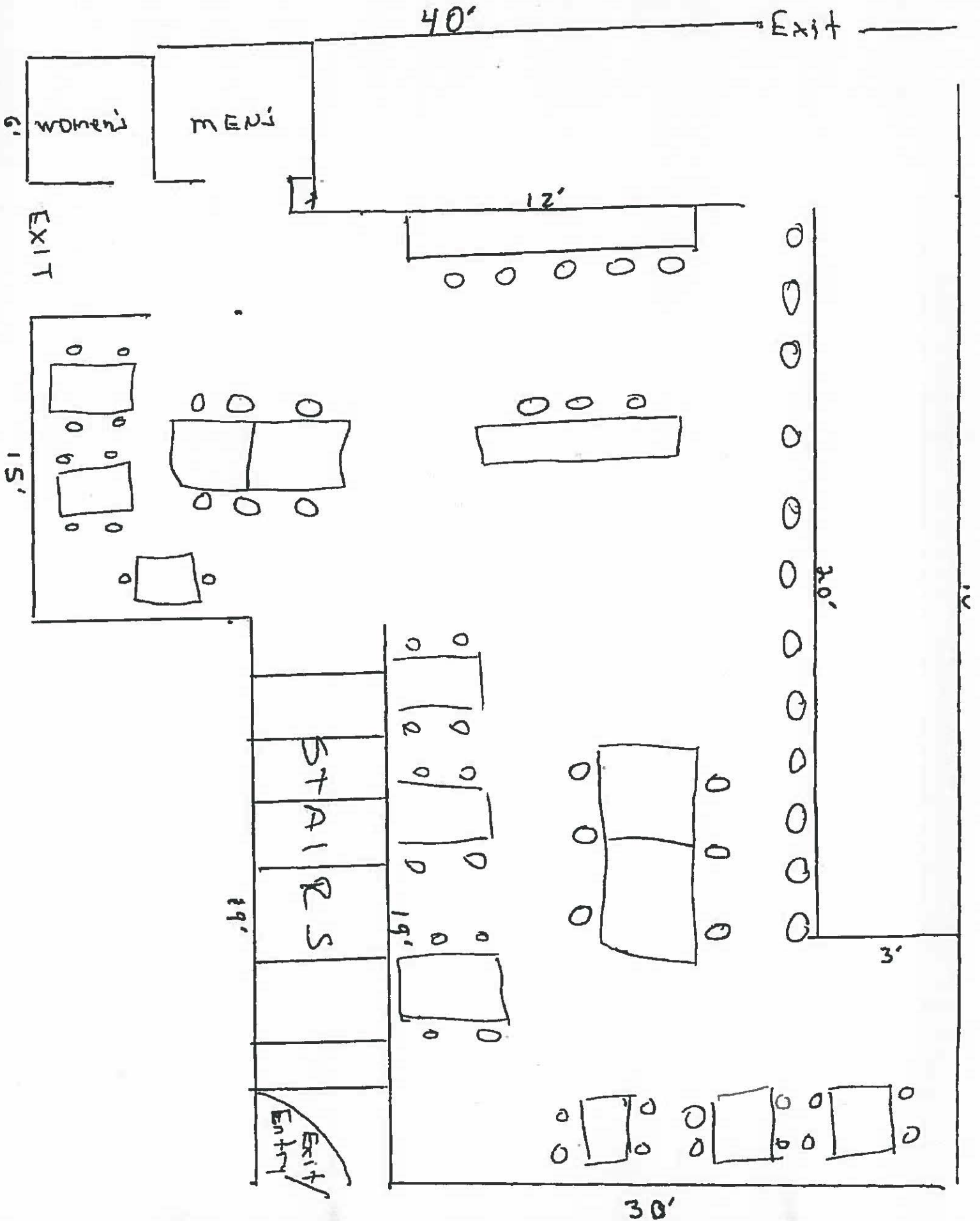
I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

June 16, 2017 01:37 PM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive style with a large initial "W".

**WILLIAM FRANCIS GALVIN**

*Secretary of the Commonwealth*



DUDLEY CHATEAU LLC FLOOR PLAN



**Lease  
20 Crest Rd, Wayland, MA 01778**

**12/1/17**

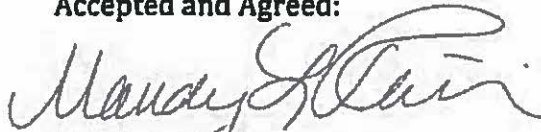
**Landlord: Mandy L. Phillips, Trustee, Cochituate Realty Nominee Trust  
Tenant: Dudley Chateau, LLC**

**The above named Trust hereby agrees to lease to the Tenant, Dudley Chateau, LLC, the entire premises located at 20 Crest Rd, Wayland, MA 01778 for the operation of a Restaurant.**

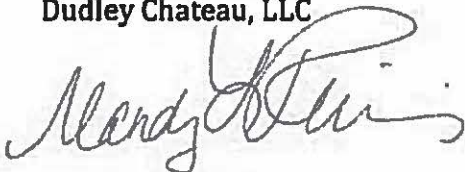
**Terms: January 1, 2018 – December 31, 2028**

**Rent: \$1,000 per month plus all operating costs, taxes, insurance and expenses, (Triple Net) to be paid directly to parties owed said amounts by Tenant. \$12,000 per year can be made via premises maintenance, upgrade, improvements and the like.**

**Accepted and Agreed:**



**Mandy L. Phillips  
Owner-Manager  
Dudley Chateau, LLC**



**Mandy L. Phillips  
Trustee  
Cochituate Realty Nominee Trust**



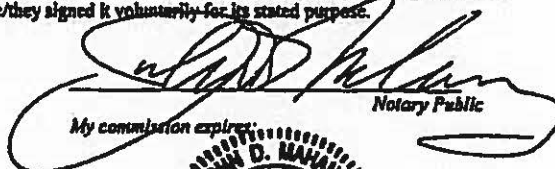
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Date:

March 15, 2012

On this 15 day of March, 2012, before me the undersigned Notary Public, personally appeared Denis Sullivan trustee as aforesaid proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose.

  
Notary Public

My commission expires:







# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

TOWN BUILDING  
41 COCHITUATE ROAD  
TEL. (508) 358-7701  
[www.wayland.ma.us](http://www.wayland.ma.us)

TO: Board of Selectmen  
FROM: Jorge Pazos, IT Director  
DATE: January 8, 2018  
RE: New Town Website

Below is an overview of the items to be presented at the January 8 Board of Selectmen meeting.

1. Website introduction:
  - a. Website is based on a content management system provided by Virtual Town and Schools, our current website hosting provider
  - b. Virtual Town and Schools is a stable and popular provider for municipalities and school districts with over 500 clients
  - c. The new website is based on their latest content management system which is built in Drupal, a popular content management platform widely used by government websites
2. Design objectives for the new website include:
  - a. Ease of use – simpler navigation structure, choice of placement of information
  - b. Enhance the websites capabilities as a communication platform
  - c. Improve ease of website maintenance and workflows
  - d. Integration with other communication platforms such as social media and email subscription capabilities
  - e. Modular platform of the content management system allows for future functionality
  - f. Maintain history of older content and documents
3. Review of the website:
  - a. Homepage design – present majority of information residents need in a simple format
  - b. Navigation design – top and side menu designs allow for consistent navigation and departmental customization
  - c. The website is optimized for mobile users
  - d. Search capabilities are featured to assist residents find information quickly
  - e. The will be ongoing evolution of design and navigation based on web traffic reports, resident and user feedback
4. Costs:
  - a. Total implementation costs were \$9,000
  - b. Current website annual support costs are \$3,800 per year for 10 licensed users
  - c. New website annual support costs are \$3,800 per year for unlimited users, costs are based on supported users
5. Project timetable:
  - a. The project began in late summer of 2017
  - b. The majority of website content was converted in October
  - c. Training for users was held in mid-November
  - d. Website should be ready for launch by January 26

## 10. Capital Projects and Town Building Repairs

DATE: JANUARY 8, 2018  
TO: BOARD OF SELECTMEN  
FROM: NAN BALMER, TOWN ADMINISTRATOR  
RE: CAPITAL PROJECTS AND TOWN BUILDING REPAIRS

### **ACTION REQUIRED: PROVIDE DIRECTION FOR SCOPE OF WORK FOR FY 19 TOWN BUILDING IMPROVEMENTS**

#### **BACKGROUND:**

- Public Buildings Director Ben Keefe will review the attached Town Meeting Articles for improvements to Town Building and Fire Station #2.
- The Board previously discussed the scope of improvements it would like to propose for Town Building in FY 19. The discussion will provide an opportunity to the Board to further define the scope of work. This discussion may continue at future meetings.
- Mr. Keefe will also review major building repairs / equipment replacement for a septic system pump and to address water damage from a burst water pipe. The Finance Committee approved a Reserve fund Transfer for \$32,000 for a septic system pump replacement. MIIA is reviewing its responsibility under our insurance policies for the water damage after the Town pays a \$5,000 deductible.

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	NAN BALMER, TOWN ADMINISTRATOR
4. TELEPHONE/DAY:	(508) 358-3620
5. TELEPHONE/EVENING:	(508) 237-1330
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	APPROPRIATE FUNDS FOR WAYLAND TOWN BUILDING RENOVATIONS
10. COST:	2,010,000
11. NO COST:	<input type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

**13. SPONSOR'S ARTICLE TEXT:**

To determine whether the Town will vote to raise and appropriate **two million and ten thousand dollars** to fund mechanical and electrical system improvements, interior renovations and design exterior door and window replacements at Wayland Town Building located at **41 Cochituate Road Wayland, MA 01778. Including** funding necessary for the engineering or other professional and legal expenses and fees associated with this project, to fund equipment, installation, construction and to fund the payment of all other costs incidental or related thereto; to authorize the town to apply for and accept any grants or loans available for the project, that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is hereby authorized to borrow the sum of **two million and ten thousand dollars** by issuance and sale of bonds or notes of the Town in accordance with General Laws Chapter 44, Section 7(1) or any other enabling legislation, said sum to be expended under the direction of the Board of Selectmen with the approval of the Permanent Municipal Building Committee, which is authorized to take any action necessary to carry out this vote, provided, however, that this vote shall not take effect until the town votes to exempt from the limitation on total taxes imposed under General Laws, Chapter 59, Section 21C (Proposition 2 ½) the amounts required to pay the principal and interest on the borrowing authorized by this vote.

**(2/3 VOTE REQUIRED)**

**14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):**



**15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):**

This article requests \$2,010,000 for mechanical and electrical system upgrades (\$1,575,000), interior renovations (\$375,000), and design work for replacement of all exterior windows and doors (\$65,000) at Wayland Town Building.

Mechanical and electrical upgrades are needed because the existing HVAC equipment is past its economic life and currently operates on R-22 refrigerant. R-22 refrigerant will no longer be manufactured after January 2020. As the stock of R-22 decreases the cost of repairs will increase dramatically. New equipment will be more efficient and will be designed to be more flexible to future remodeling and office relocations. The electrical system improvements will be required to accommodate the new HVAC equipment and improve the power distribution of the building. Because of the increased efficiency the HVAC improvements the project may qualify for State Energy Grants. The \$1,575,000 requested includes all construction, additional design costs and funding costs. Initial design costs of \$88,000 were previously approved at ATM 2017.

Interior renovations include improved organization and remodeling of all land use offices (Buildings, Conservation, Health, and Planning) to provide more efficient work conditions for both the staff and the public. Renovations also include improvements to the entrance lobby and renovation to accommodate staff changes in the Treasurer and Finance offices. The \$375,000 requested includes design fees, construction and relocation expenses.

Design work for the replacement of all exterior windows and doors is required because the existing doors and windows are deteriorated and much of the energy used for building climate control is lost through the doors and windows. The \$65,000 requested is for design fees only, construction/installation funding would be requested at next year's ATM.

All proposed renovations will add value to the building as well as improve habitability. Additional anticipated Town Building improvements will include the installation of the doors and windows, installation of an emergency generator, building wide flooring renewal, and reorganization of space after Council On Aging relocation.

**16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):**

Reduce energy consumption and carbon footprint through more efficient HVAC equipment and increased insulation of building envelope.

Replace HVAC equipment before repairs become extremely expensive because of phasing out of R-22.

Increases workspace comfort from new climate control system associated with HVAC improvements

Improved customer service through reorganization of "Land Use" offices, Finance offices, and entrance lobby.

The proposed renovations will be designed and accomplished in a manner that is accommodating to future adjustments in space usage.

17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)

Timing; Too expensive to fund at this time. Could perhaps be pushed into future fiscal year with fewer expenses.

Need to take a "hard look" at the future of Town Building before proceeding with any renovations.

Incremental cost of continued repairs to HVAC system is less than proposed equipment upgrades.

18. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	NAN BALMER, TOWN ADMINISTRATOR
4. TELEPHONE/DAY:	(508) 358-3620
5. TELEPHONE/EVENING:	(508) 237-1330
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	APPROPRIATE FUNDS FOR WAYLAND FIRE STATION NUMBER TWO RENOVATIONS
10. COST:	1,800,000
11. NO COST:	<input type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

13. SPONSOR'S ARTICLE TEXT:

To determine whether the Town will vote to raise and appropriate **One Million eight hundred thousand dollars** for renovations and improvements at Wayland Fire Station Number Two located at 145 Main Street Wayland, MA 01778, including to fund necessary engineering or other professional and legal expenses and fees associated with this project, to fund equipment, installation, construction and to fund the payment of all other costs incidental or related thereto;, that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is hereby authorized to borrow the sum of **One Million eight hundred thousand dollars** by issuance and sale of bonds or notes of the Town in accordance with General Laws Chapter 44, Section 7(1) or any other enabling legislation, said sum to be expended under the direction of the Board of Selectmen with the approval of the Permanent Municipal Building Committee, which is authorized to take any action necessary to carry out this vote, provided, however, that this vote shall not take effect until the town votes to exempt from the limitation on total taxes imposed under General Laws, Chapter 59, Section 21C (Proposition 2 ½) the amounts required to pay the principal and interest on the borrowing authorized by this vote.

**(2/3 VOTE REQUIRED)**

14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):



**15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):**

This article requests \$1,800,000 for renovations at Wayland Fire Station Number Two to adequately support both male and female staff and to meet current standards and regulations for equipment, maintenance and storage.

Renovations will include updated office space, separate male and female locker and rest rooms, proper storage for EMS and Hazardous materials containment equipment, a gear storage room, bunk rooms and a fully handicapped accessible restroom for public use. It is anticipated these updates and renovations will include full building fire suppression (building sprinkler system) installation. It is expected that no changes will be required in the building structure or exterior footprint. The \$1,800,000 requested includes all construction, project management, any additional design costs and funding costs. Initial design costs of \$75,000 were previously approved at ATM 2017.

Current berthing arrangements at Fire Station Number Two are inadequate at best for accommodating both male and female first responders. Equipment storage is currently below standards and could result in decreased life expectancy of equipment as well as increased response time. There is no installed fire suppression system in the building.

**16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):**

Provides adequate berthing facilities for both male and female first responders. Improving work place conditions and possibly avoiding a labor grievance.

Installation of a full building fire suppression system not only provides safety for personnel but will also minimize damage to the building structure and stored equipment. Recent fire (January 2017) at Concord Fire Station Two, also without a fire suppression system, resulted in the total loss of a fire engine and loss of the building for several months. These losses impact not only the Town budget but also the safety of local residents when the local Fire Station is out of commission.

Renovations now could result in long term savings in avoiding the need to completely replace with new this older fire station.

**17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)**

Timing; Too expensive to fund at this time. Could perhaps be pushed into future fiscal year with fewer expenses.

**18. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_**

## 11. Debt Exclusion

DATE: JANUARY 8, 2018  
TO: BOARD OF SELECTMEN  
FROM: NAN BALMER, TOWN ADMINISTRATOR  
RE: PROPOSITION 2 ½ DEBT EXCLUSION FOR TOWN BUILDING AND FIRE STATION TWO BUILDING IMPROVEMENTS

### REQUESTED ACTION:

APPROVE A LETTER TO THE FINANCE COMMITTEE ASKING FOR ITS WRITTEN RECOMMENDATION ON THE BOARD'S PROPOSAL TO PLACE A PROPOSITION 2 ½ DEBT EXCLUSION QUESTION ON THE MARCH 27<sup>th</sup> LOCAL ELECTION BALLOT TO FUND IMPROVEMENTS TO TOWN BUILDING AND FIRE STATION #2

### BACKGROUND:

- The Public Buildings Director discussed with the Board proposed improvements in FY 19 to Town Building in the amount of \$2,010,000 and to Fire Station #2 for \$1,800,000 for a total of \$3,810,000.
- The Board's Policy on Proposition 2 ½ Ballot Questions provides for the following steps for the Board to place one or more debt exclusion / override questions on the ballot:
  1. January 16, 2018: Boards and committees shall provide a written request to the Board of Selectmen;
  2. January 16, 2018: Board of Selectmen requests the Finance Committee to make a written recommendation on any Proposition 2 ½ Questions it plans to place on the ballot;
  3. January 29, 2018: The Finance Committee will be asked to make a presentation and recommendation to the Selectmen which reviews in detail the Town's current and projected financial position, rationale for timing and amount of override / exclusions, consequences of not placing the question(s) on the ballot, any other relevant details.
  4. February 5, 2018: Target date by which Selectmen vote to place Proposition 2 ½ Questions on the election ballot. (Notice is required to the Town Clerk under state law 35 days before election or by February 20, 2018).
  5. TBD: Following Board of Selectmen vote to place debt exclusion on the ballot, the Finance Committee will conduct a public forum before the election.

January 8, 2018

Mr. David Watkins, Chair  
Wayland Finance Committee  
41 Cochituate Road  
Wayland, MA 01778

Dear Mr. Watkins,

The Board of Selectmen requests the written recommendation of the Finance Committee on the Board's proposed Proposition 2 ½ Ballot Question to be placed before the voters on March 27, 2018 to fund improvements to the Town Building and Fire Station #2. Details of and justification for these two projects are outlined in the attached two warrant articles.

The Selectmen request that the Finance Committee make a presentation on its written recommendation for this and all proposed Proposition 2 ½ Questions at the meeting of the Board of Selectmen on January 29, 2018. After the Selectmen approve the placement of any Proposition 2 ½ questions on the March 27<sup>th</sup> ballot, the Finance Committee is asked to make a second presentation on its recommendation at a public forum before the election.

Attached are letters from other public bodies of the town requesting proposition 2 ½ debt exclusions. Also attached is the Board of Selectmen's Policy on Proposition 2 ½ Questions which outlines the local process for placing debt exclusions on the ballot and includes the information the Finance Committee should provide in its presentations.

Thank you for your service to the Town. The Finance Committee's role in understanding the impact of funding new projects is of the utmost importance and your work is greatly appreciated.

Sincerely,

Lea Anderson, Chair  
Wayland Board of Selectmen.



## 12. Annual Town Meeting Articles

DATE: JANUARY 8, 2018  
TO: BOARD OF SELECTMEN  
FROM: NAN BALMER, TOWN ADMINISTRATOR  
RE: ANNUAL TOWN MEETING ARTICLES

### REQUESTED ACTION:

**VOTE TO SUBMIT THE FOLLOWING WARRANT ARTICLES FOR 2018 ANNUAL TOWN MEETING AND AUTHORIZE THE TOWN ADMINISTRATOR AND CHAIR TO MAKE NON-SUBSTANTIVE CHANGES AS REQUIRED PRIOR TO SUBMISSION:**

1. RECOGNIZE CITIZENS AND EMPLOYEES FOR PARTICULAR SERVICE TO THE TOWN
2. PAY PREVIOUS FISCAL YEAR UNPAID BILLS
3. CURRENT YEAR TRANSFERS
4. COMPENSATION FOR TOWN CLERK
5. CHOOSE TOWN OFFICERS
6. ACCEPT GIFTS OF LAND
7. SELL OR TRADE VEHICLES AND EQUIPMENT
8. RESCIND AUTHORIZED BUT UNISSUED DEBT
9. ADOPT ANNUAL REVOLVING FUND CAPS
10. HEAR REPORTS
11. CLOSE RECREATION COMMISSION 53D BEACH ACCOUNT
12. TRANSFER BALANCE OF NON-INSURANCE FUND TO STABILIZATION FUND
13. FUND COUNCIL ON AGING (COMMUNITY CENTER) DESIGN
14. A) FUND BUILDING DESIGN AND IMPROVEMENTS FOR TOWN BUILDING  
B) FUND BUILDING AND DESIGN IMPROVEMENTS FOR FIRE STATION #2
15. APPROVE FIVE-YEAR LEASE FOR INFORMATION TECHNOLOGY NETWORK

### BACKGROUND:

- Warrant articles are due to the Board of Selectmen by Tuesday January 16, 2018 at 4:30 pm.
- The attached draft articles are submitted on a new article form and where possible, include draft Finance Committee comments, pro's and con's.
- The 15 articles above are those which are submitted by the Board of Selectmen only. A total of 34 articles plus petitioners' articles are expected. Attached is listing of all expected articles, grouped by article sponsor. There is some variation in article titles between the January 8<sup>th</sup> agenda and the article forms because preparation of articles is a work in progress and team effort.
- After submission, article text will be reviewed and placed in proper legal form by Town Counsel after which the article text may be changed by the article sponsor upon request to the Town Administrator and may be approved only if the changes to article text are within the scope of the original article as determined by Town Counsel.
- Please provide authority to the Town Administrator and Chair to make non substantive changes to the articles / other content prior to submission.

1. RECOGNIZE  
CITIZENS &  
EMPLOYEES

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	NAN BALMER, TOWN ADMINISTRATOR
4. TELEPHONE/DAY:	(508) 358-3620
5. TELEPHONE/EVENING:	(508) 237-1330
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	RECOGNIZE CITIZENS AND EMPLOYEES FOR PARTICULAR SERVICE TO THE TOWN
10. COST:	
11. NO COST:	<input checked="" type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

**13. SPONSOR'S ARTICLE TEXT:**

To determine whether the Town will recognize the achievements and contributions to Town government of citizens and employees:

1. To recognize citizens who have served in a volunteer capacity on elected and/or appointed boards, committees, and commissions for a minimum of 25 years (service need not be consecutive);
2. To recognize employees who have retired since the previous Annual Town Meeting or intend to retire prior to June 30, 2018, subject to a minimum of 20 years of service;
3. To request Town Meeting observe a moment of silence in memory of elected or appointed volunteers, employees with at least 10 years of service, or an employee while in service to the Town without regard to tenure who shall have passed away since the adjournment of the 2017 Annual Town Meeting.

A list of individuals qualifying for recognition shall be prepared prior to the printing of and so listed in the Warrant.

**14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):**

NONE

**15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):**

This is a standard article that allows recognition and commendation of certain citizens and employees.

16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):

17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)

18. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_



2. PAY PREVIOUS  
YEARS' BILLS

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	BRIAN KEVENY, FINANCE DIRECTOR
4. TELEPHONE/DAY:	(508) 358-3611
5. TELEPHONE/EVENING:	
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	PAY PREVIOUS FISCAL YEAR UNPAID BILLS
10. COST:	TO BE DETERMINED BY FINANCE DIRECTOR BEFORE WARRANT GOES TO PRINT
11. NO COST:	<input type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

13. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):  
NONE

14. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):

Occasionally, bills are not paid at the end of a fiscal year for a number of reasons, including late submission.

15. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):

This is a standard Article that allows the Town to pay bills for the previous fiscal year.

16. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)

There are no apparent arguments against this Article.

17. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	BRIAN KEVENY, FINANCE DIRECTOR
4. TELEPHONE/DAY:	(508) 358-3611
5. TELEPHONE/EVENING:	
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	CURRENT YEAR TRANSFERS
10. COST:	
11. NO COST:	<input type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

13. SPONSOR'S ARTICLE TEXT:

To determine whether the Town will vote to appropriate a sum or sums of money for the operation and expenses of various Town Departments for the current fiscal year; to determine whether such appropriation shall be provided by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, by funds received as grants from the Commonwealth or federal government, by borrowing, or otherwise; and to determine which Town officer, board, or committee of combination of them, shall be authorized to expend the money or monies appropriated therefor.

14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):

NONE

15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):

This article authorizes the expenditure of funds for the current fiscal year, which were not foreseen in the current budget.

16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):

These expenses were not reasonably anticipated when forecasting the FY2018 budget and they represent binding obligations of the Town.

**17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)**

**The Board of Selectmen is not aware of any.**

**18. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_**



**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	12/19/17
3. CONTACT PERSON:	NAN BALMER, TOWN ADMINISTRATOR
4. TELEPHONE/DAY:	(508) 358-3620
5. TELEPHONE/EVENING:	(508) 237-1330
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	GENERAL FUND

**Article Information**

9. ARTICLE TITLE:	COMPENSATION FOR TOWN CLERK
10. COST:	2.25% - \$1,676 + STEP EQUIVALENT \$2,636 = \$3,312
11. NO COST:	<input type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

13. SPONSOR'S ARTICLE TEXT:  
To determine whether the town will vote to fix the salary for the Town Clerk, pursuant to Massachusetts General Laws Chapter 41, Section 108, to be effective July 1, 2018.

SALARY SCHEDULE – TOWN CLERK

	<u>FY 2018</u>	<u>FY 2019</u>
Town Clerk	\$ 74,500.00	\$ 77,812.00

14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION ):  
Annual wage adjustments for the Town Clerk are subject to Annual Town Meeting approval. The proposed 2.25% FY 19 increase represents a nominal increase for non-union staff. The increase is consistent with across-the-board wage increases for other Town employees. In addition, the value of a step increase is added for consistency with other non-union Town employees.

15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):  
This Article is requesting Town Meeting to approve an increase for the Town Clerk. The Article sets forth a 2.25% wage increase in FY 19 plus the equivalent of a non-union step increase. This amount is consistent with FY 19 increases for other Town personnel.

**16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):**

The proposed wage allows for the equivalent of a periodic wage increase consistent with the proposed FY 19 increases for other employees.

**17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)**

Employees are sufficiently compensated under the existing wages.

**18. CHAIR (OR DESIGNEE) SIGNATURE/DATE:** \_\_\_\_\_

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	NAN BALMER, TOWN ADMINISTRATOR
4. TELEPHONE/DAY:	(508) 358-3620
5. TELEPHONE/EVENING:	(508) 237-1330
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	CHOOSE TOWN OFFICERS
10. COST:	
11. NO COST:	<input type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

13. SPONSOR'S ARTICLE TEXT:

To determine whether the Town will vote to choose Town officers, agents, trustees, councils, commissioners, boards, and committees not elected by official ballot

Trustees of the Allen Fund  
Fence Viewers  
Field Drivers  
Measurers of Wood and Bark  
Surveyors of Lumber

14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):

NONE

15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):

This is a standard article that permits the Town to fill various positions.

16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):

It is important to the Town to have all positions filled.

17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)

18. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_



6. ACCEPT GIFTS OF LAND

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	NAN BALMER, TOWN ADMINISTRATOR
4. TELEPHONE/DAY:	(508) 358-3620
5. TELEPHONE/EVENING:	(508) 237-1330
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	ACCEPT GIFTS OF LAND AT TOWN CENTER
10. COST:	
11. NO COST:	<input type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

**13. SPONSOR'S ARTICLE TEXT:**

To determine whether the Town authorizes the Board of Selectmen, with approval by Town Counsel as to form, to acquire by gift, purchase, eminent domain or otherwise, for municipal purposes, on such terms and conditions as the Board of Selectmen deems appropriate, the fee or any lesser interest in all or any part of the parcels of land and the buildings and other structures identified as Lot 9-1A and Lot 3-1, shown on a plan prepared by the Town Surveyor entitled "Plan of land Wayland, Massachusetts Showing Proposed Municipal Parcels" dated July 21, 2015 and recorded with the Middlesex South Registry of Deeds as Plan 616 of 2015, and Parcel 14, shown on a plan prepared by Hancock Associates entitled "Plan of Land in Wayland, MA" dated January 20, 2012, recorded with the Middlesex South Registry of Deeds as Plan 305 (1 of 2) of 2012 on file with the Town Clerk, and further to authorize the Board of Selectmen to execute any and all documents as may be necessary or convenient in relation thereto or take any action relative thereto.

**14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):**

**15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):**

This article allows the Board of Selectmen, on behalf of the Town, to accept three parcels of land, approximately 8.43 acres, as gifts from Twenty Wayland LLC for municipal purposes. Passage of this article and ultimately closing on the parcels will give the Town ownership of land abutting the "Municipal Parcel" and nearby areas. The three parcels being considered are shown on the map in Appendix C.

"Green Area"

Lot 9-1A (in Map 23, Lot 052M), approximately 0.68 acres.  
Assessed value of \$33,300 for entire lot.



**“Informal Town Green”** Parcel 3-1 (also known as Map 23, Lot 052I), approximately 1.75 acres. Assessed value of \$35,500.

**“Northern Fields”** Parcel 14 (also known as Map 23, Lot 052O), approximately 6 acres Assessed value of \$47,200; large portion of which is wetlands.

The Board of Selectmen entered into a Letter of Intent (LOI) with Twenty Wayland LLC in August 2017, one part of which gifts in fee simple eight parcels of land: the three land parcels listed above, another two for conservation purposes and four others already authorized at a previous town meeting. The map in Appendix C shows all of these parcels with shading to define this breakdown. (At the November 2015 Special Town Meeting (STM), Twenty Wayland LLC had only offered four parcels. None of these four has been gifted or acquired yet.) One of the parcels of land is broken into two lots – one lot previously authorized (Lot 9-1B) and one lot authorized under this article (Lot 9-1A, “Green Area”). While there are eight parcels in total, one is subdivided.

The Settlement Agreement finalizing this gift of eight parcels is anticipated to be signed in early November, prior to discussion of this STM article. If it is not signed by then, the Town vote to accept these parcels will show good intent to continue negotiations to acquire the land. The Settlement Agreement is part of a larger plan memorialized in the LOI which will terminate the Town’s relationship with Twenty Wayland LLC.

The two parcels being gifted to Conservation do not require a Town Meeting vote to be accepted. The Conservation Commission on August 24, 2017 voted 5-0 in favor of the following:

The Wayland Conservation Commission accepts the gift of Parcel 15 (Map 23, Lot 52P) and Parcel 16 (Map 23, Lot 52Q) shown on a plan prepared by Hancock Associates entitled “Plan of Land in Wayland, Ma” dated January 20, 2012, recorded with the Middlesex South Registry of Deeds as Plan 305 (1 of 2) of 2012 contingent upon the Grantor assigning any and all environmental indemnification agreements to its benefit relative to any environmental contamination.

The “Green Area” near the Municipal Parcel (Lot 9-1A) is part of a parcel that was broken into two lots. The other part, Lot 9-1B, was authorized for acquisition under STM November 2015 Article 3. At that time, Twenty Wayland LLC did not offer the whole parcel to the Town and so only Lot 9-1B was voted under the 2015 STM article. The parcel being addressed by this article contains a detention basin. The retail owner is responsible for maintenance and operation of the basin as shown in a recorded document titled Declaration of Easements, Covenants and Restrictions; the owner of the land parcel is responsible for regulatory compliance. Acquisition of this parcel adds to the contiguous land surrounding the municipal parcel and could help with land use calculations for future development which now could be controlled by the Town of Wayland.

The “Informal Town Green” is known as the town green and is maintained by the retail owner. This legal arrangement will continue if the parcel is accepted as a gift. Currently, while the retail portion of Town Center is owned by Zurich Asset Management, the town green is still owned by Twenty Wayland LLC. Twenty Wayland LLC has not allowed community events on the town green for the past two summers. However, the Planning Board’s Master Special Permit calls for this area to “be open to public use.” It is the Board of Selectmen’s intent to have this be public space again.

The “Northern Fields” area together with the parcels being gifted to Conservation (Parcels 15 and 16 on the map) provide linkage from Town Center to Cow Commons conservation land. While most of the parcel is wetlands, there are some upland areas. The Board of Selectmen has not discussed potential uses for this parcel and further research is required to determine legal restrictions on usage other than as open space. Each of these three parcels considered by this article is part of the RTNs (Release Tracking Number) assigned to Raytheon Company and covering the entire ±83 acre property, which Raytheon occupied as of 1995. The “Green Area” (Lot 9-1A) and the “Northern Fields” (Parcel 14) currently have existing groundwater monitoring wells as part of an ongoing monitoring program. Raytheon is responsible for these



wells, but its primary environmental consultant, ERM, is conducting the maintenance and ultimate decommissioning.

Both the original development Memorandum of Agreement (dated March 28, 2006) and the Amendment No. 1 (dated October 20, 2009) require a conservation restriction of at least 10 acres of land for conservation purposes and a transfer of the municipal parcel of approximately 1.6 acres. This proposed Settlement Agreement brings the town a gift in fee simple of eight parcels totaling almost 25 acres with approximately 12 of that for conservation purposes.

**16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):**

- Accepting these gifts of land brings the Town over eight acres of land in the Town Center providing land for both municipal and public use, including the potential for Town facilities and access to existing conservation land. All eight pieces of gifted land total almost 25 acres.
- Allowing the Town to own the "Informal Town Green" area will allow it to be used for public events, which has not been allowed by the present owner. This will allow the Town to have a presence in Town Center.
- Accepting the gifts of land under this Article will give a path to complete Wayland's relationship with Twenty Wayland LLC after more than 12 years.
- Passage of this article and accepting the land will create a connection between Town Center, the Rail Trail/bike path and Cow Commons, thereby making a usable connection between various recreational properties. Town ownership and usage of this land might actually add value and therefore tax revenue to the town.

**17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)**

- Some would argue that we should not remove this land from the tax rolls. The total value of these three parcels is \$116,000 (estimated at \$2,000 - \$2,500 in tax revenue annually.)
- The Town should not take on the potential liability for regulatory compliance with the detention basin.
- Some may be uncomfortable accepting a gift of land when environmental groundwater monitoring is still ongoing.
- There are usage limitations on some of the parcels due to deed restrictions and wetlands.

**18. CHAIR (OR DESIGNEE) SIGNATURE/DATE:** \_\_\_\_\_



**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	ELIZABETH DOUCETTE, FINANCIAL ADMINISTRATOR
4. TELEPHONE/DAY:	(508) 358-6821
5. TELEPHONE/EVENING:	
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	SELL OR TRADE VEHICLES AND EQUIPMENT
10. COST:	
11. NO COST:	<input checked="" type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

13. SPONSOR'S ARTICLE TEXT:

To determine whether the Town will vote to authorize the Board of Selectmen to sell or otherwise dispose of surplus vehicles, equipment, or other personal property in connection with the purchase of new vehicles, equipment, or other personal property.

14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):

NONE

15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):

This standard article allows the Town to sell used vehicles or other personal property

16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):

The selling of used property contributes to the Town's general fund.

17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)

The Finance Committee is not aware of any.

18. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_

8. RESCIND  
DEBT

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	ZOE PIERCE, TREASURER- COLLECTOR
4. TELEPHONE/DAY:	(508) 358-3635
5. TELEPHONE/EVENING:	
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	RESCIND AUTHORIZED BUT UNISSUED DEBT
10. COST:	
11. NO COST:	<input checked="" type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

13. SPONSOR'S ARTICLE TEXT: TO DETERMINE WHETHER THE TOWN WILL VOTE TO RESCIND THE FOLLOWING BORROWINGS, AUTHORIZED AT THE CORRESPONDING TOWN MEETINGS, THAT ARE DEEMED NO LONGER NECESSARY BECAUSE THE PROJECTS FUNDED BY THE BORROWINGS HAVE BEEN COMPLETED:

- |                           |             |                       |
|---------------------------|-------------|-----------------------|
| 1) DPW FACILITY           | \$1,124,816 | ARTICLE 2 OF 11/20/13 |
| 2) COCHITUATE SPRINKLERS  | \$ 100,000  | ARTICLE 8 OF 04/07/16 |
| 3) VARIOUS BULDING REPAIR | \$ 100,400  | ARTICLE 6 OF 04/04/14 |
| 4) ENERGY IMPROVEMENTS    | \$ 306,824  | ARTICLE 6 OF 04/07/14 |
| 5) SMALL TRUCK-DPW        | \$ 30,000   | ARTICLE 8 OF 04/07/16 |
| 6) CLAYPIT SCHOOL REMODEL | \$ 579,000  | ARTICLE 6 OF 04/04/14 |

14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):

15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS): THE PURPOSE OF THIS ARTICLE IS TO RESCIND BORROWING AUTHORIZATION THAT IS NO LONGER NECESSARY BECAUSE THE RELEVANT PROJECTS HAVE BEEN EITHER COMPLETED, ARE NO LONGER BEING CONSIDERED OR BEEN INACTIVE FOR A LONG TIME. PASSAGE OF THIS ARTICLE WILL RESCIND THE BORROWING AUTHORIZED AT THE ABOVE MENTIONED TOWN MEETINGS, FOR THE CORRESPONDING PROJECTS LISTED. IT DOES NOT PREVENT THE TOWN FROM FUNDING A SIMILAR CAPITAL ITEM IN THE FUTURE.

16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS): APPROVAL OF THIS ARTICLE WILL REMOVE THE TOWN'S ABILITY TO BORROW FOR THESE ITEMS SINCE IT IS NO LONGER NECESSARY. THE ACTON WILL INCREASE THE TOWN'S EXISTING BORROWING CAPACITY.

17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS) THE FINANCE COMMITTEE IS UNAWARE OF ANY.

18. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_



**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	BRIAN KEVENY, FINANCE DIRECTOR
4. TELEPHONE/DAY:	(508) 358-3620
5. TELEPHONE/EVENING:	(508) 237-1330
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	FISCAL YEAR 2019 REVOLVING FUND EXPENDITURE LIMITS
10. COST:	NO COST TO THE GENERAL FUND. THE EXPENDITURE LIMITS ON EACH REVOLVING FUND WILL BE RECOMMENDED TO THE BOARD OF SELECTMEN BY THE FINANCE DIRECTOR BASED ON PRIOR YEAR HISTORY AND FUTURE DEPARTMENTAL PLANS
11. NO COST:	<input checked="" type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

13. SPONSOR'S ARTICLE TEXT:

TO DETERMINE IF THE TOWN WILL VOTE TO SET THE FOLLOWING ENUMERATED DOLLAR FIGURES AS THE TOTAL AMOUNT TO BE EXPENDED FROM THE RESPECTIVE AUTHORIZED REVOLVING FUNDS, OR TAKE ANY ACTION RELATIVE THERETO:

1. TRANSFER STATION:
2. COUNCIL ON AGING:
3. SCHOOL DEPARTMENT / PROFESSIONAL DEVELOPMENT:
4. SCHOOL DEPARTMENT / CURRICULUM:
5. RECREATION:
6. RECREATION: ATHLETIC FIELDS:

7. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):

NONE

8. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):

THE 2017 ANNUAL TOWN MEETING ADOPTED TOWN CODE CHAPTER 19, SECTION 10 ESTABLISHING SIX REVOLVING FUNDS UNDER G.L. C. 44, SECTION 53 E 1/2 WHICH REQUIRES THAT TOWN MEETING ANNUALLY SET THE LIMITS OF EXPENDITURE FOR EACH

**REVOLVING FUND.**

**9. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):**

**REVOLVING FUNDS ALLOW THE TOWN TO ACCOUNT SEPARATELY FOR REVENUES, EXPENSES AND FUND BALANCES FOR CERTAIN FUNCTIONS OF GOVERNMENT THAT ARE FUNDED FROM USER FEES.**

**10. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)**

**11. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_**

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	NAN BALMER, TOWN ADMINISTRATOR
4. TELEPHONE/DAY:	(508) 358-3620
5. TELEPHONE/EVENING:	(508) 237-1330
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	HEAR REPORTS
10. COST:	
11. NO COST:	<input type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

**13. SPONSOR'S ARTICLE TEXT:**

To determine whether the Town will vote to receive and act upon reports of Town officers, agents, trustees, commissioners, boards and committees.

- Board of Assessors
- Community Preservation Committee
- Energy Initiatives Advisory Committee
- Youth Advisory Committee

**14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):**

NONE

**15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):**

This is a standard article that allows reports commissioned by the Town to be heard.

**16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):**

There are several boards and committee that are required to report to town meeting the work they complete over the past year. It is important to keep the Town informed as to their progress.

**17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)**

**18. CHAIR (OR DESIGNEE) SIGNATURE/DATE:** \_\_\_\_\_



11. CLOSE 53D  
BEACH ACCOUNT

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN AND RECREATION COMMISSION
2. DATE RECEIVED:	
3. CONTACT PERSON:	KATHERINE BRENNAN, RECREATION DIRECTOR
4. TELEPHONE/DAY:	(508) 358-6864
5. TELEPHONE/EVENING:	
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	RESCIND ACCEPTANCE OF CHAPTER 44, SECTION 53D THAT ESTABLISHED A REVOLVING FUND FOR WAYLAND TOWN BEACH
10. COST:	
11. NO COST:	<input checked="" type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

13. SPONSOR'S ARTICLE TEXT:

TO RESCIND MASSACHUSETTS GENERAL LAW CHAPTER 44 SECTION 53 D WHICH ESTABLISHED AT 2016 ANNUAL TOWN MEETING A REVOLVING FUND FOR THE RECREATION COMMISSION FOR THE WAYLAND TOWN BEACH

14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):

15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):

16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):

17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)

18. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_

12. Non. Ins.  
STABILIZATION  
FUND

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	BRIAN KEVENY, FINANCE DIRECTOR
4. TELEPHONE/DAY:	(508) 358-3611
5. TELEPHONE/EVENING:	
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	TERMINATE THE NON INSURANCE STABILIZATION FUND AND TRANSFER BALANCE TO GENERAL FUND STABILIZATION FUND
10. COST:	
11. NO COST:	<input checked="" type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

13. SPONSOR'S ARTICLE TEXT:

TO SEE IF THE TOWN WILL VOTE TO TRANSFER THE ENTIRE BALANCE OF THE NON-INSURANCE STABILIZATION FUND TO THE GENERAL FUND STABILIZATION FUND AND FURTHER THAT THE TOWN VOTE TO TERMINATE THE NON-INSURANCE STABILIZATION FUND PURSUANT TO G.L. C. 40, SECTION 58 EFFECTIVE JULY 1, 2018.

REQUIRES 2/3 VOTE

14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):

15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):

THERE IS NO LONGER A PURPOSE FOR THE TOWN TO MAINTAIN THE THE NON-INSURANCE STABILIZATION FUND

16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):

SINCE THERE IS NO LONGER A PURPOSE FOR THIS FUND, THE TOWN WOULD BE BEST SERVED

BY CONSOLIDATING THIS FUND WITH THE GENERAL FUND STABILIZATION FUND.

17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)

NONE

18. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_



13. CoA / CC  
COMMUNITY CENTER  
DESIGN

**TOWN OF WAYLAND  REQUEST FOR TOWN MEETING ARTICLE**

1.SPONSOR:  Board of Selectmen

2.DATE RECEIVED:  1.15.2018

3.CONTACT PERSON:  Mary Antes

4.TELEPHONE/DAY:

5.TELEPHONE/EVENING:

6.BOARD VOTE:

7.DATE OF BOARD VOTE:

8.PROPOSED FUNDING SOURCE:  to determine whether such appropriation shall be provided by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, but not by borrowing, in compliance with Massachusetts General Law Chapter 44 or other enabling authority, or otherwise, and to authorize the Town Administrator with the approval by the voters of the Town of Wayland to take any action necessary to carry out this program.

9. ARTICLE TITLE:   
Appropriate funds for design, construction documents and bidding for a proposed Community Center at Wayland Town Center.

10. COST: 11. NO COST: 12. DATE COST ESTIMATE AVAILABLE:  
\$468,333

**13. SPONSOR'S ARTICLE TEXT:**

To determine whether the Town will vote to appropriate a sum of money to be expended under the direction of the Board of Selectmen for the purpose of preparing Bid Documents and obtaining bids for a Council on Aging/Community Center building on the "municipal pad," the parcels of land located on and off Boston Post Road (Route 20) and Andrew Avenue in Wayland Massachusetts shown as Lot 4-1, and Lot 8-1 on a plan entitled "Plan of Land in Wayland, MA," dated December 12, 2013 prepared

by Hancock Associates and recorded with the Middlesex South Registry of Deeds as Plan No. 1008 or 2013, a copy of which plan is on file in the Office of the Town Clerk.

The design scope shall include renovations to the existing building (10,250 SF) on the "municipal pad" and minor expansion as needed, as well as related site development for driveway access, parking and landscaping. The design will accommodate up to 11,000 SF of building area, with engineering confirmation that wastewater capacity is available and sufficient for that size building and for the proposed community center use.

No funds allocated under this Article shall be expended until the Town of Wayland acquires control of the 1.79 acre "municipal pad" and achieves satisfactory environmental testing for PCB's as authorized at the November 9, 2015 Special Town Meeting.

**14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION ):** The proposed Community Center is to serve the needs of both the Council on Aging and the Recreation Department that are both operating with below standard facilities at this time. There are twelve peer Towns of Wayland that are recognized by the Finance Committee. All of those towns have a separate council on aging facility and ten have a community center. One of the two that does not have this, Lincoln, is in the process of planning a combined Council on Aging/Community Center, similar to the project that is proposed per this article.

The COA/CC believes that the use of this land for the purposes set forth herein are consistent with the goals set forth by the Town in planning for a municipal use at the Town Center property, which was to create a mixed-use project that would be a gathering place and attract residents of Wayland for a multitude of purposes, including residences, shopping, dining and gathering for recreational and other activities, all in walking distance to one another. The Council on Aging has expressed a strong desire to be at this location for the reason that those who use their facility will have easy access to these amenities by way of a short walk.

The Wayland Recreation Department has very little space for indoor programming. At present, Recreation has a non-standard basketball court at the Town Building and an aging pottery/painting studio appended to Fire Station #2. As a result, little indoor recreational activity can be offered. A wide range of fee-based programs can be added to recreational programming for all ages in a community center. The community center will be designed specifically to offer flexible space suitable for programs offered by ANY



municipal entity and spaces that can be made available for rent to private groups.

## **15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500**

**WORDS):** The existing building at the municipal pad represents a unique opportunity for the Town of Wayland. Since it is built and readily adaptable, many costs typically undertaken by a town to create a senior or community center are already paid. For less than the typical cost of a new building, this existing building can be finished for new uses for Wayland's future. Since 2006, the plan for the Town Center development has included this benefit of a municipal building pad gift. The Town Center project is approaching complete build-out, and the BoS is negotiating for transfer of the site. The timing is right to move forward with specific planning for Wayland uses on the site.

More than twenty-five percent of Wayland residents are 60+ years old and eligible for local, state, and federal programs and services. These seniors are underserved by inadequate facilities, squeezed into 2800 sf space at Town Building and a patchwork of other scattered resources. State guidelines recommend provision of 5 to 6 sq feet per senior, and surrounding towns are well ahead of Wayland in providing these resources. Wayland's senior population is growing and is expected to peak at 30% of the town population in 2030 before declining, and this site represents an optimal, well-located, cost-effective way to meet this essential need.

This facility can be designed as flexible space that will serve citizens of all ages by managing program schedules. Close coordination of shared space and resources, so that the rooms and spaces are used to their full potential and services can be streamlined can be achieved by the Recreation & CoA staff through joint planning.

New indoor recreation space will create play space for young children sought by the Wayland Parent and Children's Association.

Locating the senior/community center at the municipal pad increases its visibility & places it in a walkable community so that residents can walk to shops, restaurants, housing, health club, medical offices without having to drive between these uses.

Parking at Town Building is full to overflowing during many senior events, with the population of users only growing. Adequate parking can be provided at the municipal pad, with overflow parking readily available in the nearby Town Center lots and on- street parking for peak events.

## **16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):** Wayland's Peer

The current CoA designated space is only 1/10<sup>th</sup> the size recommended by the Commonwealth. The Council on Aging has been requesting additional space for their operations for many years and it has been shown that the facilities currently available to them are significantly less than other towns of comparable size to Wayland. Towns (so designated by the Fin.Com for benchmarking purposes) provide an average of 2 sq. ft. per senior resident in their Senior Centers. Wayland provides 0.66 sq. ft. per senior resident. The Commonwealth Office of Elder Affairs recommends that 5 to 6 sq. ft. per senior resident over 60 be provided.

The Council on Aging provides elder services recommended by the Older American Act. The current space fails to provide minimum recommended facilities for counseling, storage of confidential information, and private spaces in which confidential information may be exchanged.

Many residents of all ages in Wayland have actively pursued a Community Center in Wayland for youth programs and recreational activities for citizens of all ages and have held events to demonstrate such support for a facility that is available in many of Wayland's peer towns.

This use would be consistent with the goals of the Town in acquiring the Town Center municipal parcel.

## **17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS) □ 18.**

### **CHAIR (OR DESIGNEE) SIGNATURE/DATE:**

Some may feel that the Town cannot afford to spend money on a significant renovated facility at a time when our debt service is at the top of the Finance Committee's recommended maximum debt service level (10% of Total Spending).

Some may feel that providing better facilities for seniors is not a priority at this time.

Some may feel that providing better indoor facilities for children's recreation is not a priority at this time.

Some fear that the site selected may have environmental issues or be too close to the Sudbury River.



Some may feel that the Town should not be undertaking new projects given that we have a relatively high per household tax bill as compared to peer Towns. \_\_\_\_\_

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## **Sponsor & Contact Information**

Council on Aging-Julie Secord, Director

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Recreation Department- Katherine Brenna, Director

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**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	NAN BALMER, TOWN ADMINISTRATOR
4. TELEPHONE/DAY:	(508) 358-3620
5. TELEPHONE/EVENING:	(508) 237-1330
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	APPROPRIATE FUNDS FOR WAYLAND TOWN BUILDING RENOVATIONS
10. COST:	2,010,000
11. NO COST:	<input type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

**13. SPONSOR'S ARTICLE TEXT:**

To determine whether the Town will vote to raise and appropriate **two million and ten thousand dollars** to fund mechanical and electrical system improvements, interior renovations and design exterior door and window replacements at Wayland Town Building located at **41 Cochituate Road Wayland, MA 01778**. **Including** funding necessary for the engineering or other professional and legal expenses and fees associated with this project, to fund equipment, installation, construction and to fund the payment of all other costs incidental or related thereto; to authorize the town to apply for and accept any grants or loans available for the project, that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is hereby authorized to borrow the sum of **two million and ten thousand dollars** by issuance and sale of bonds or notes of the Town in accordance with General Laws Chapter 44, Section 7(1) or any other enabling legislation, said sum to be expended under the direction of the Board of Selectmen with the approval of the Permanent Municipal Building Committee, which is authorized to take any action necessary to carry out this vote, provided, however, that this vote shall not take effect until the town votes to exempt from the limitation on total taxes imposed under General Laws, Chapter 59, Section 21C (Proposition 2 ½) the amounts required to pay the principal and interest on the borrowing authorized by this vote.

**(2/3 VOTE REQUIRED)**

**14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):**

**15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):**

This article requests \$2,010,000 for mechanical and electrical system upgrades (\$1,575,000), interior renovations (\$375,000), and design work for replacement of all exterior windows and doors (\$65,000) at Wayland Town Building.

Mechanical and electrical upgrades are needed because the existing HVAC equipment is past its economic life and currently operates on R-22 refrigerant. R-22 refrigerant will no longer be manufactured after January 2020. As the stock of R-22 decreases the cost of repairs will increase dramatically. New equipment will be more efficient and will be designed to be more flexible to future remodeling and office relocations. The electrical system improvements will be required to accommodate the new HVAC equipment and improve the power distribution of the building. Because of the increased efficiency the HVAC improvements the project may qualify for State Energy Grants. The \$1,575,000 requested includes all construction, additional design costs and funding costs. Initial design costs of \$88,000 were previously approved at ATM 2017.

Interior renovations include improved organization and remodeling of all land use offices (Buildings, Conservation, Health, and Planning) to provide more efficient work conditions for both the staff and the public. Renovations also include improvements to the entrance lobby and renovation to accommodate staff changes in the Treasurer and Finance offices. The \$375,000 requested includes design fees, construction and relocation expenses.

Design work for the replacement of all exterior windows and doors is required because the existing doors and windows are deteriorated and much of the energy used for building climate control is lost through the doors and windows. The \$65,000 requested is for design fees only, construction/installation funding would be requested at next year's ATM.

All proposed renovations will add value to the building as well as improve habitability. Additional anticipated Town Building improvements will include the installation of the doors and windows, installation of an emergency generator, building wide flooring renewal, and reorganization of space after Council On Aging relocation.

**16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):**

Reduce energy consumption and carbon footprint through more efficient HVAC equipment and increased insulation of building envelope.

Replace HVAC equipment before repairs become extremely expensive because of phasing out of R-22.

Increases workspace comfort from new climate control system associated with HVAC improvements

Improved customer service through reorganization of "Land Use" offices, Finance offices, and entrance lobby.

The proposed renovations will be designed and accomplished in a manner that is accommodating to future adjustments in space usage.



17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)

Timing; Too expensive to fund at this time. Could perhaps be pushed into future fiscal year with fewer expenses.

Need to take a "hard look" at the future of Town Building before proceeding with any renovations.

Incremental cost of continued repairs to HVAC system is less than proposed equipment upgrades.

18. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	NAN BALMER, TOWN ADMINISTRATOR
4. TELEPHONE/DAY:	(508) 358-3620
5. TELEPHONE/EVENING:	(508) 237-1330
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	APPROPRIATE FUNDS FOR WAYLAND FIRE STATION NUMBER TWO RENOVATIONS
10. COST:	1,800,000
11. NO COST:	<input type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

**13. SPONSOR'S ARTICLE TEXT:**

To determine whether the Town will vote to raise and appropriate **One Million eight hundred thousand dollars** for renovations and improvements at Wayland Fire Station Number Two located at **145 Main Street Wayland, MA 01778**, including to fund necessary engineering or other professional and legal expenses and fees associated with this project, to fund equipment, installation, construction and to fund the payment of all other costs incidental or related thereto;, that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is hereby authorized to borrow the sum of **One Million eight hundred thousand dollars** by issuance and sale of bonds or notes of the Town in accordance with General Laws Chapter 44, Section 7(1) or any other enabling legislation, said sum to be expended under the direction of the Board of Selectmen with the approval of the Permanent Municipal Building Committee, which is authorized to take any action necessary to carry out this vote, provided, however, that this vote shall not take effect until the town votes to exempt from the limitation on total taxes imposed under General Laws, Chapter 59, Section 21C (Proposition 2 ½) the amounts required to pay the principal and interest on the borrowing authorized by this vote.

**(2/3 VOTE REQUIRED)**

**14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):**

15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):

This article requests \$1,800,000 for renovations at Wayland Fire Station Number Two to adequately support both male and female staff and to meet current standards and regulations for equipment, maintenance and storage.

Renovations will include updated office space, separate male and female locker and rest rooms, proper storage for EMS and Hazardous materials containment equipment, a gear storage room, bunk rooms and a fully handicapped accessible restroom for public use. It is anticipated these updates and renovations will include full building fire suppression (building sprinkler system) installation. It is expected that no changes will be required in the building structure or exterior footprint. The \$1,800,000 requested includes all construction, project management, any additional design costs and funding costs. Initial design costs of \$75,000 were previously approved at ATM 2017.

Current berthing arrangements at Fire Station Number Two are inadequate at best for accommodating both male and female first responders. Equipment storage is currently below standards and could result in decreased life expectancy of equipment as well as increased response time. There is no installed fire suppression system in the building.

16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):

Provides adequate berthing facilities for both male and female first responders. Improving work place conditions and possibly avoiding a labor grievance.

Installation of a full building fire suppression system not only provides safety for personnel but will also minimize damage to the building structure and stored equipment. Recent fire (January 2017) at Concord Fire Station Two, also without a fire suppression system, resulted in the total loss of a fire engine and loss of the building for several months. These losses impact not only the Town budget but also the safety of local residents when the local Fire Station is out of commission.

Renovations now could result in long term savings in avoiding the need to completely replace with new this older fire station.

17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)

Timing; Too expensive to fund at this time. Could perhaps be pushed into future fiscal year with fewer expenses.

18. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_



15. 5-YR IT  
LEASE

**TOWN OF WAYLAND  
REQUEST FOR TOWN MEETING ARTICLE**

**Sponsor & Contact Information**

1. SPONSOR:	BOARD OF SELECTMEN
2. DATE RECEIVED:	
3. CONTACT PERSON:	JORGE PAZOS, IT DIRECTOR
4. TELEPHONE/DAY:	(508) 358-6865
5. TELEPHONE/EVENING:	
6. BOARD VOTE:	
7. DATE OF BOARD VOTE:	JANUARY 8, 2018
8. PROPOSED FUNDING SOURCE:	

**Article Information**

9. ARTICLE TITLE:	AUTHORITY TO ENTER INTO CONTRACT FOR IT NETWORK
10. COST:	\$242,000 FOR YEAR ONE OF FIVE YEAR CONTRACT
11. NO COST:	<input type="checkbox"/>
12. DATE COST ESTIMATE AVAILABLE:	

**Article Text**

13. SPONSOR'S ARTICLE TEXT:

TO PROVIDE AUTHORITY TO ENTER INTO A CONTRACT IN EXCESS OF THREE YEARS FOR AN INFORMATION TECHNOLOGY NETWORK FOR THE TOWN AND SCHOOL DEPARTMENTS AND FURTHER TO APPROPRIATE THE SUM OF \$242,000 FOR THE PURPOSE OF FUNDING THE FIRST YEAR OF THE CONTRACT.

14. SPONSOR'S COMMENTS (UP TO 150 WORDS MAY BE INCLUDED AT SPONSOR'S DISCRETION):

15. FINANCE COMMITTEE DRAFT COMMENTS (UP TO 500 WORDS):

The current town computer network is currently stable but both aging and not positioned to accommodate future growth, particularly within the schools.

- Consider the following facts:
- 33% of our network switches will be "end of support" within the next 2 years, more will follow soon thereafter
  - Within the next year 85% of our wireless access points will be 5 or more years old
  - Our network is responsible for providing telephone service to all Town buildings, a critical life and safety system

By implementing a thoughtful replacement plan now, the Town could modernize its network, provide critical and necessary services and achieve this in a financially predictable fashion.

16. FINANCE COMMITTEE DRAFT PROS (4-6 POINTS):

- Accommodates anticipated growth in demand for network services particularly for digital learning.
- Replace aging infrastructure which will become expensive or not possible to maintain through manufacturer support contracts.
- Replace aging infrastructure which is a critical component for telecommunication services. Telecommunication services are a critical life/safety system in all Town buildings.
- Implementing a holistic approach to the management of the Town's network infrastructure allows for a thoughtful and predictable replacement plan.

17. FINANCE COMMITTEE DRAFT CONS (4-6 POINTS)

- Financing the network commits the town to funding the plan over the next five years.
- Implementation of network equipment requires professional services which increases the total cost of the solution. These costs are accounted for in the current plan.
- Targeted replacement of segments of the network, as opposed to a complete overhaul, allows the Town to address the network needs without committing to a multi-year financing plan.

18. CHAIR (OR DESIGNEE) SIGNATURE/DATE: \_\_\_\_\_

## ARTICLE LIST FOR 2018 ANNUAL TOWN MEETING

\* Asterisk indicates articles proposed for abbreviated presentation procedure

DRAFT 1/5/18

Article	2019 Article Name	Sponsor	Assignee Selectmen	Assignee FinCom	Position Selectmen	Position FinCom
A	Recognize Citizens and Employees for Particular Service to the Town	Board of Selectmen				
B*	Pay Previous Fiscal Year Unpaid Bills	Board of Selectmen				
C	Current Year Transfers	Board of Selectmen				
D*	OPEB Funding	Finance Committee				
E	Amend Revolving Fund By-Law to Add Community Garden Revolving Fund	Conservation Commission				
F*	Compensation for Town Clerk	Board of Selectmen				
G	FY 2019 Omnibus Budget	Finance Committee				
H	Rescind Authorized but Unissued Debt	Board of Selectmen				
I*	Accept Gifts of Land	Board of Selectmen				
J*	Hear Reports	Board of Selectmen				
K*	Choose Town Officers	Board of Selectmen				
L*	Sell or Trade Vehicles and Equipment	Board of Selectmen				

\* Asterisk indicates articles proposed for abbreviated presentation procedure; scheduled at 5 minutes each.



## ARTICLE LIST FOR 2018 ANNUAL TOWN MEETING

\* Asterisk indicates articles proposed for abbreviated presentation procedure

Article	2018 Article Name	Sponsor	Assignee Selectmen	Assignee FinCom	Position Selectmen	Position FinCom
M	Adopt Annual Revolving Fund Caps	Board of Selectmen				
N	Rescind Acceptance of MGL 44 Section 53 D to close Beach Revolving Fund	Board of Selectmen				
O	Stabilization Fund	Board of Selectmen				
P	Fund Design Costs for Council on Aging	Board of Selectmen				
Q	Fund Design and Improvements for Town Building and Fire Station 2	Board of Selectmen				
R*	Approve Lease in Excess of Three Years for Information Technology Network	Board of Selectmen				
S	Adopt Resolution on Municipal Construction – Green Goal	Energy and Climate Change / Board of Selectmen				
T	Adopt Stormwater by-Law	Board of Public Works				
U	Fund Water Meters	Board of Public Works				
V	Zoning By-Law: Limited Site Plan Review	Planning Board				

## ARTICLE LIST FOR 2018 ANNUAL TOWN MEETING

\* Asterisk indicates articles proposed for abbreviated presentation procedure

Article	2017 Article Name	Sponsor	Assignee Selectmen	Assignee FinCom	Position Selectmen	Position FinCom
W*	Zoning By-Law: Parking Requirements	Planning Board				
X	Fund Library Construction Project	Library Trustees				
Y*	Fund School Stadium and Athletic Facilities Construction Projects	School Committee				
Z	Fund Loker Field Construction	Recreation Commission				
AA	Home Rule Petition to Exempt Small Construction projects from Prevailing Wage Laws	Affordable Housing Trust				
BB	CPA: Fund Aqueduct Crossings	Community Preservation Committee				
CC	CPA: Fund Library Windows	Community Preservation Committee				
DD	CPA: Fund Depot Improvements	Community Preservation Committee				
EE	CPA: Set Asides and Transfers	Community Preservation Committee				
FF	Fund Fire Collective Bargaining Agreement	Personnel Board				

## ARTICLE LIST FOR 2018 ANNUAL TOWN MEETING

\* Asterisk indicates articles proposed for abbreviated presentation procedure

GG	Fund Police Collective Bargaining Agreement	Personnel Board				
HH	Personnel Bylaws and Wage & Classification Plan	Personnel Board				

DRAFT



**TOWN ADMINISTRATOR'S REPORT  
WEEK ENDING JANUARY 5, 2018**

**1. CORRESPONDENCE**

No comments.

**2. FY 19 BUDGET**

Attached please find a memorandum from Elizabeth Doucette which is also enclosed with the detailed, comprehensive FY 19 budgets for all non-school departments submitted to the Finance Committee. Budgets are under review and it is expected that the Finance Committee will soon communicate a request for FY 19 operating budget reductions. The entire FY 19 Town budget proposal is in your Dropbox and posted on the website and will be provided in hard copy Monday night.

**3. ANNUAL TOWN MEETING LOGISTICS**

Attached please find a memorandum from John Senchyshyn outlining logistical considerations for the larger than usual expected 2018 Annual Town Meeting. John is expected to attend the January 22<sup>nd</sup> Selectmen's meeting to get Board direction.

**4. COLLINS CENTER UPDATE**

The final report will be posted on the Selectmen's page next week. The Board may wish to devote a special meeting to plan next steps. Additional funds are available in this grant to provide technical support.

**5. OPEN CAPITAL PROJECTS – CONSERVATION**

The Finance Committee did not support the request of the Conservation Commission for a tractor based on unspent capital funds from prior years. The Conservation Administrator has provided the attached memorandum regarding open capital projects.

**6. UPDATE ON 5 CONCORD ROAD PETITION**

The petition is expected to be completed and filed by Town Counsel by the end of the week.

**7. UPDATE ON HR DIRECTOR POSITION**

We are continuing to seek candidates for this position and may need to discuss with the board another organizational or employment arrangement.

**8. IT MUNIS CAPITAL PROJECT**

Please see attached from the IT Director in response to a concern from the Finance Committee Chair about whether sufficient funds are requested for this project.

DATE: JANUARY 5, 2018  
TO: BOARD OF SELECTMEN  
FROM: ELIZABETH DOUCETTE, FINANCIAL ADMINISTRATOR  
RE: FY19 TOWN DEPARTMENTS' GENERAL FUND OPERATING BUDGET DETAIL

FY19 operating budgets for all Town departments are attached for your review. For each department the FY19 Budget Detail and Summary are included. The Summary page shows FY16 Actual, FY17 Actual, FY18 Budgeted, FY18 Year-to-date through September 30, 2017, and FY19 Requested. A summary sheet will be provided on January 8. Note that Enterprise Funds are not included at this time.

For departments under the jurisdiction of the Board of Selectmen the Board voted to accept these budgets. Other budgets were approved by their respective Boards.

Departmental Munis entries were finalized on December 20, 2017, after which a review was conducted to ensure agreement with the attached detail budgets. Due in part to recent staffing changes and salary revisions, the detail budgets for several departments may require minor revisions. A hard copy binder will be provided to you on January 8 and will include any identified revisions.

The following relates to the attached budgets:

**Major Changes FY18 to FY19**

Major Changes are identified on each departmental summary page to highlight relevant changes. These do not include the Personnel Services changes mentioned below.

**Personnel Services**

New staff requests and increase in staff hours approved by Personnel Board are included.

The following Personnel Services revisions are global and therefore not listed under Major Changes on each departmental summary page:

- FY18 salary increase of 2% and FY19 salary increase of 2¼% (note that these increases are not shown for employees with contracts not yet negotiated);
- Planned Step increases and, where applicable, Grade changes;
- Grade and Step changes related to staff departures and replacements.

**Account Numbers**

The process of setting up a new and more detailed accounting by expanding and combining account numbers, began in FY18 and continues in FY19 to provide insight into essential detail of budget items. Therefore, comparing year over year total expenses will, in some instances, better highlight overall changes.

There are some budget items that still remain to be brought into consistent use. Some of these are employee clothing reimbursement versus uniforms and other fringe benefits identified in collective bargaining agreements. Some of these items are listed in Personnel Services, while others are listed in Expenses. Further changes to more consistently identify these may be considered for FY19.

**DATE:** January 8, 2018  
**TO:** Board of Selectmen  
**FROM:** John Senchyshyn, Asst. Town Administrator/HR Director  
**RE:** 2018 ANNUAL TOWN MEETING PLANS

**REQUESTED MOTION:**

**None.**

**BACKGROUND:**

Given that several articles on the Spring 2018 warrant are significant, there is the potential for a very large turnout for 1 or 2 nights of Town Meeting. I have been asked to prepare plans for a large turnout. For discussion purposes, "large" is defined as 1,500 to 2,000 individuals in attendance.

I have been working with Public Buildings Director Ben Keefe, Executive Assistant David Porter and Assistant Fire Chief Neil McPherson on the plans. We have a conference call scheduled with Town Moderator Dennis Berry on Monday afternoon, 1/8 for his initial input. There will be an agenda item with the BOS on 1/22 to discuss the plans in more detail, but this is what we have identified thus far:

- The maximum occupancy capacity of the Field House is 1,875. In order to reach the maximum, Town Meeting would have to be turned so that the Moderator's platform is against the wall furthest from the front doors. In this configuration the bleachers would be closed and all seating would be in chairs. (Note: When referencing maximum occupancy, it includes all individuals in attendance, i.e., residents, employees, contractors, etc. It also assumes that all the seats are filled.)
- If the current configuration was maintained, but spread for the length of the Field House, maximum utilization would be at 1,475. The bleachers opposite the Moderator's platform could still be used.
- Under either configuration the High School would need to be opened to provide for additional bathroom facilities.
- There is the strong possibility that a second venue will be required. This would likely be the theater in the High School. It has the necessary wiring for broadcasting.
  - The additional occupancy is 600.
  - An Assistant Moderator will need to be appointed.
  - Broadcasting to and from the second venue will need to be established for both viewing to and from the Field House.



- Electronic voting can be used with a second venue.
- To maximize capacity for participants a child care arrangement would be helpful.
- Regardless of whether 1 or 2 venues are selected, satellite parking will be required with buses transporting attendees to and from the High School. We estimate 3 satellite locations.
- Additional audio/visual equipment may be needed. Several large screen TVs placed in various locations in the Field House would aide attendees.

The aforementioned arrangements are likely needed for only 1 or 2 nights, depending on how the articles are ordered. We expect significant additional expenses for the spring Town Meeting. Estimates are being gathered now and we will be able to discuss expenses with the Board in more detail on 1/22.



**TOWN OF WAYLAND**  
MASSACHUSETTS  
01778  
**CONSERVATION COMMISSION**

TOWN BUILDING  
41 COCHITUATE ROAD  
TELEPHONE: (508) 358-3669  
FAX: (508) 358-3606

DATE: December 15, 2017  
TO: Finance Committee  
CC: Board of Selectman  
FROM: Linda Hansen, Conservation Administrator  
SUBJECT: Open Capital Projects

Currently, the Conservation Commission has four open Capital Improvement projects. The purpose of this memo is to provide you with the status of each open project. With the help of our town engineer, all these projects are moving forward. Thank you for the opportunity to discuss the Conservation Capital budget on Monday night.

**Dam Repairs (two accounts; original budgets \$100,000 and \$25,000):** This summer I contracted with an engineering firm to prepare the required 5-year dam inspection report (\$5K).

The recommendations of this inspection report will be implemented after the roof on the gatehouse is repaired.

STEP 1: The design of the roof will be completed shortly (\$ 4.5K) and a new roof shall be installed this winter (amount unknown).

STEP 2: The next step is to determine whether the overflow valve (in the gatehouse) is functional to allow for release of water from the impoundment (emergency management).

STEP 3: The spillway on the west side of the earthen dam needs to be redesigned/rebuilt and have a beaver deceiver installed.

These three steps will easily consume the balance of \$ 116,054 designated for dam repairs (this balance does not reflect the \$10K recently spent). The Emergency Management Committee has made this project a high priority.

**Conservation (original budget \$30,000):** Conservation area improvements.

This balance of this budget shall be expended for improvements at Heard Farm Road and parking area (\$ 28 K).

The Town Engineer is addressing the access road to Heard Farm which has large potholes and regularly floods. The plan is to reconstruct road and direct stormwater to a LID treatment system (demonstration project). An arborist will be hired to prune the trees in the vintage apple orchard.

**Shed Upgrades (original budget \$ 25,000):**

STEP 1: A new barn door was installed on the shed this past summer (~ \$5K).

STEP 2: Evaluate the foundation, floor and central support beam. The shed is very old and structurally needs work. The amount of money left in this account after the shed door was replaced will be sufficient to fund the most needed work—an experienced carpenter or engineer should be able to prioritize what needs to be addressed first.



# TOWN OF WAYLAND

41 COCHITUATE ROAD

WAYLAND, MASSACHUSETTS 01778

TOWN BUILDING

41 COCHITUATE ROAD

TEL. (508) 358-7701

**TO:** Nan Balmer, Town Administrator  
**FROM:** Jorge Pazos, IT Director  
**DATE:** January 3, 2018  
**SUBJECT:** Munis Revenue module implementation

This memo serves as a response to your questions about the implementation of the Munis revenue modules. Specifically in regards to the questions of the need for additional funding for implementation and the level of effort required to successfully implement the new revenue systems.

We believe there is no need for additional budget. Based on our prior experience and analysis of the applications (Munis, Vision and VADAR) we have determined that the latest data for property records are in Vision. This is a widely accepted data standard practice across the Commonwealth. Parcel ID is the key to link the tables in these three different applications.

Since the data are in Vision and not in MUNIS, we need to decide which fields to transfer over to Munis from Vision for property records. This is a common practice during Munis conversions. This process is accounted for within the existing project quote.

Additionally a one-time data conversion from VADAR to Munis will need to be done to capture billing history for all properties. This process is accounted for within the existing project quote. Please bear in mind that this process is separate and distinct from the process of converting Vision data to Munis for billing purposes.

Currently a data bridge is used between Vision and VADAR twice a year (respectively export/import procedure) to generate billing information within VADAR. There will be a similar data bridge that will be used from Vision to Munis in the future. This is a common practice during normal Munis operations and will be done twice annually. This process is accounted for within the existing project quote.

In summary, the level of effort will depend on the data type being converted (billing, property or location). This process is well defined by Munis as they have performed several of these conversions (VADAR or some other competitor to Munis). It will not be necessary to check each property as there are several ways to analyze the data to check for quality of the conversion. There will be several individual properties checked during the process but not necessarily all. There will be Town employees who will be required to invest time to proof the conversions. This type of work is hard to outsource and



will eventually require the input and approval of department heads from Assessing, Treasury, Land Use and Finance. This is a common practice during Munis conversions. This process is accounted for within the existing project quote.

Please let me know if you have any questions or concerns. Thank you.



NAN BALMER  
TOWN ADMINISTRATOR  
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# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN  
LEA T. ANDERSON  
MARY M. ANTES  
LOUIS M. JURIST  
CHERRY C. KARLSON  
DOUGLAS A. LEVINE

## Board of Selectmen

### Meeting Minutes

December 4, 2017

6:30pm

Selectmen's Meeting Room  
41 Cochituate Road, Wayland

**Attendance:** Lea T. Anderson, Cherry C. Karlson, Mary M. Antes, Douglas A. Levine, Louis M. Jurist  
**Also Present:** Town Administrator Nan Balmer

**A1. Call to Order by Chair; Announcements** Chair L. Anderson called the meeting of the Board of Selectmen to order at 6:30p.m. in the Selectmen's Meeting Room of the Wayland Town Building and noted that the meeting will likely be broadcast and videotaped for later broadcast by WayCAM. L. Anderson noted that because she lost her voice, Vice Chair C. Karlson will lead the meeting.

C. Karlson stated that N. Balmer appeared on The Buzz. N. Balmer noted that the Treasurer and Assessor are working on how residents can pay end of the fiscal year taxes this calendar year because of the change in the federal tax code.

**A2. Licensing: Public meeting on Class II Used Car Dealer's License for Wayland Automotive at 322 Commonwealth Road** Wayland Automotive co-owners Richard Devlin and Eli Elias appeared before the Board along with their Counsel Stephen Roberts. D. Porter, Executive Assistant to the Town Administrator, provided a summary of the issue. R. Devlin explained why they were in front of the Board and described their services, reputation and feedback they have received from Wayland residents and surrounding communities. He described the proposed site plan. Regarding complaints from abutters, he explained that they have started notifying truck companies to keep deliveries between the hours of 8am to 8pm. They have installed a key lock box, video motoring, window stickers, and are planning to add motion lighting as suggested by the Police Chief.

L. Jurist asked if they can adhere to the suggestions from the Police and Fire Chiefs. R. Devlin said those are reasonable considerations and all vendors said they will comply with the requests. D. Levine asked about the complaints of trucks idling. Again R. Devlin said they can reach out to vendors about the idling issue. L. Anderson asked if the limit of vehicles is increased can it be assured Wayland Automotive won't exceed the 19 car limit on the lot. Both owners said yes. It was stated that Wayland Town Counsel's opinion is that all of the cars physically located there are covered by the license, but they are independent if they are offered for sale online. Similarly, the license does not cover cars parked in the Framingham location. G. Larsen, Building Commissioner, stated that the revised site plan presented tonight would have to go before the ZBA before implementation. He stated the Board could grant conditions based upon the current site plan as approved, and the ZBA would only review compliance with the current site plan if there was a resident complaint. C. Karlson said this is not the most user friendly method.

Joy Alamigir, 9 Caulfield Road, worried about the noise and the smell of fumes from his backyard. He would like to know the notification requirements for possible site expansion.

Jim van Sciver, Holiday Rd., stated he's had good experiences at Wayland Automotive. He would like to see the business continue to stay viable.

Carole Plumb, Bald Rock Rd., would like to know if the site plan is accurate. She handed out a site plan and photos and expressed concern about a culvert potentially located near the property.

Bob Shelton, 5 Eden Rd., stated he's not an abutter but it is a short walk from his home to Wayland Automotive. He stated it provides a valuable service to the community and shouldn't be constrained.

Aracely Sansone, 7 Caulfield Rd., stated concern with the lack of communication and last-minute notice about the hearing. She is also concerned about the expansion of commerce on Route 30.

Mike Botticelli, Amey Road, stated he does not think the area has grown much. He thinks Wayland Automotive is trustworthy.

Christopher Gagney, 11 Caulfield Rd., stated he's lived in Wayland his whole life and has seen a dramatic increase in traffic on Route 30. He's concerned about the pollution, the noise and the impact on neighborhood children.

Ankur Bhaggava, 24 Fox Meadow Ln., asked about the crimes that were reported and the likelihood of those increasing.

Nancy Leifer, 73 East Plain St., said she walked past the business at one time and counted over 40 cars.

**A3. Public Comment** Chair of the BOA, Susan Rufo, cited the BOA's concerns about parts of the debt presentation by the financial advisor later this evening, specifically lines 11 and 51 of the report relating to estimates of property value growth and overlay. The BOA would like to be involved in future discussions.

Mike Lowery, Lake Shore Drive, discussed his concerns with the repurposing of the 5 Concord Rd. property. He stated in some ways it is too late and also too early. He opined that the town doesn't have enough time to do anything substantive before Annual Town Meeting. He distributed a copy of his remarks.

Judy Ling, 274 Concord Rd, asked about the vote to approve bonding for the new library prior to ATM. She read a statement stating her concerns about a new library and provided a copy to the Board.

Steve Freundlich, 62 Cochituate Rd., read part of a statement and discussed his concerns about the expense and location of a new library.

**A4. Debt: Presentation from Uni-Bank financial advisor on the impact of new debt for large projects to plan for Board's votes to place debt exclusion questions on ballot; update on refunding of existing debt** N. Balmer explained that this presentation is a planning exercise to start the conversation on how to fund major projects with debt. Unibank Financial Advisor Clark Rowell came before the Board to explain the major Board of Selectmen's responsibilities regarding financial policy in Town. He went over the spreadsheet in the presentation that covers assumptions, general fund expenditures, pay as you go capital, and percent debt service to total revenue and projected levy. He reviewed the "big 4" projects, what years they might be funded and the list of capital projects FY2019 through FY2023. Other important lines and topics in the report include OPEB (recommended putting back into the budget rather than a separate article), Free Cash, Pay As You Go capital, proposition 2 ½, state aid and other local receipts. He discussed the terms assessed valuation, tax rate and tax levy.

Rowell concluded the "Big 4" can fit into Wayland's budget and recommended using a debt exclusion for funding. He stated that a goal of 10% debt service to revenue constraint can be satisfied understanding that everything is dependent on the amount of future capital expenditures. L. Anderson asked about the Chair of



the BOA's concern about the assumptions for the overlay and the process for updating assumptions going forward. At the Board's request, Rowell discussed interest rate assumptions. FinCom Chair D. Watkins thanked C. Rowell and said FinCom will look discuss the presentation. C. Rowell then gave an update on refunding of existing debt.

**A5. Capital Projects: Vote to approve capital projects for departments under the Board of Selectmen** N. Balmer reviewed each of the proposed FY19 capital projects and costs, reminding the Board that each of these projects had come before them previously. N. Balmer recommended that the Board submit the items #1-13 to the Finance Committee. L. Anderson asked about the Library window project. C. Karlson asked about Town Building items 2, 3, and 4 and the FY20 debt exclusion discussion related to prioritizing capital projects. N. Balmer said they should forward the requests to FinCom for consideration. C. Karlson said she's trying to be efficient with everyone's time, including the FinCom. D. Watkins distributed a document to the Board showing potential capital numbers and mentioned that the Finance Committee would like direction on prioritization of requests. N. Balmer noted that the Finance Committee is the only group that sees all projects and is in the best position to assist with prioritizing.

M. Antes moved, seconded by L. Jurist, that the Board of Selectmen vote to submit capital items 1-13 to the Finance Committee for the FY2019 capital budget. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0.

**A6. Licensing: Discuss Wayland Automotive Class II Used Car Dealer's License and request to allow sale of additional vehicles; Vote to approve renewal of liquor licenses, common victualler licenses, entertainment licenses, and used car dealer licenses** M. Antes asked if the Board is being consistent in its review of all the Class II Used Car Dealer's Licenses. D. Porter explained that all the other Class II license holders were notified of the Wayland Automotive agenda item. M. Antes brought up the number of complaints throughout the years. L. Jurist noted that this is a matter of renewing a license and Wayland Automotive has agreed to the conditions. D. Porter clarified that the lot is in a Business A zone. The Board agreed that a uniform policy would be best regarding possible site or business restrictions rather than making demands on a single business. D. Levine offered to work with D. Porter to develop a policy.

l. Jurist moved, seconded by D. Levine, to approve the renewal of the Wayland Automotive license changing the number of vehicles on the site from 5 to 19 with a request that all reasonable efforts be made to meet concerns of public safety officials and residents, including time of delivery and idling time of trucks on the property. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0.

M. Antes moved, seconded by L. Jurist, to approve the 2018 renewal of liquor licenses, common victualler's licenses, entertainment licenses, auto dealer licenses, and sale of second hand articles licenses as presented in the December 4, 2017 memorandum to the Board of Selectmen regarding the 2018 license renewals. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0.

**A7. Discuss and vote to approve charge for Committee to plan for re-purposing of 5 Concord Road** N. Balmer reviewed the genesis of the charge. L. Anderson further explained how the charge was developed and noted that the charge looks out years. M. Antes suggested naming the Board as appointing authority. The Board opted to review the charge and be prepared for specific suggestions for next week, and also asked for an update on Town Counsel's efforts to clarify potential uses of the property with the AG's office.

**A8. ATM Warrant: Vote to open Annual Town Meeting Warrant**

D. Levine moved, seconded by M. Antes, that The Board of Selectmen vote on Monday, December 4, 2017, to open the Warrant for the Annual Town Meeting to begin on Monday, April 2, 2018, at 7:00p.m. in the Wayland High School Field House, and the Annual Election to be held on Tuesday, March 27, 2018, at designated polling places. The warrant for said Annual Town Meeting will be open from Friday, December

15, 2017, at 8:30am., through Tuesday, January 16, 2018, at 4:30p.m. In accordance with Chapter 36, Section 36-3 of the Code of the Town of Wayland, all articles for consideration and inclusion in said warrant shall be submitted to the Selectmen's Office in Wayland Town Building at 41 Cochituate Road, Wayland, Massachusetts by 4:30p.m. on Tuesday, January 16, 2018. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0.

**A9. ATM discussion; Update on potential Planning Board articles** N. Balmer explained that FinCom Chair D. Watkins revised the warrant article submission form and provided instructions. C. Karlson had some suggestions and will review them with N. Balmer tomorrow. N. Balmer said she will clean it up and get it back to the Board. N. Balmer said she is pressing the Town Planner to make a timetable for possible planning articles. She said the Chair of the Planning Board would like to come before the Board at the Jan. 8, 2018 meeting.

**A10. Minutes: Vote to approve minutes of November 6, November 14, and November 27**

M. Antes moved, seconded by D. Levine, to approve the minutes of November 6, 2017 as amended. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0.

M. Antes moved, seconded by L. Jurist, to approve the minutes of November 14 and November 27. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0.

**A11 Consent Calendar: Review and vote to approve (See Separate Sheet)**

M. Antes moved, seconded by L. Jurist to approve the Consent Calendar. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0.

**A12. Review Correspondence: (See Separate Index Sheet)** C. Karlson and M. Antes both noted that it is disappointing to hear about E. Brideau's resignation. The Board discussed item number 4 regarding the Trustees of the Allen Fund and the potential for combining with other like funds. D. Porter will look into the options.

**A13. Report of the Town Administrator**

1. **Correspondence:** None.
2. **MMA Registration:** Board members should inform D. Porter if they would like to attend the MMA Annual Meeting.
3. **Presentation from River Stewardship Council:** N. Balmer stated the Council invited the BoS to attend its presentation to ConCom on December 21<sup>st</sup> for an update.
4. **Marijuana Moratorium: Youth Advisory Committee Plan of Study:** C. Karlson questioned the purpose of the plan. N. Balmer asked what role the Board would like her to play with this. C. Karlson said she sees two considerations - one being reactive to state regulations being developed, and secondly looking at an opt-out. She is concerned the timetable provided is already looking at an opt-out before the town has received information from the state. L. Jurist stated that putting the Youth Advisory Committee in charge of this is not giving the community a broad view, and M. Antes noted that we need a neutral view of the issue. The Board decided it should be on the agenda for the Jan. 8, 2017 meeting.

**A14. Selectmen's Reports and Concerns** L. Anderson reported she and C. Karlson went to a West Suburban Health Group presentation on high deductible health plans with health savings accounts. She stated it was well presented and interesting.

**A15. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any** The Chair said, "I know of none."

**A16. Enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(2), Section 21(a)(3), Section 21(a)(6), and Section 21(a)(7) to review and consider for approval and potential release of the following Executive Session minutes because a public discussion of these matters may have a detrimental effect on the litigating, negotiating or bargaining position of the Town:** C. Karlson moved, seconded by D. Levine, to enter into executive session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(2), Section 21(a)(3), Section 21(a)(6), and Section 21(a)(7) to review and consider for approval and potential release of the Executive Session minutes from September 18, 2017; October 30, 2017; and November 6, 2017. The Chair declares that a public discussion of these matters may have a detrimental effect on the litigating, negotiating or bargaining position of the Town. Roll call vote. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0.

The Chair invites attendance by: Nan Balmer, Town Administrator, and David Porter Executive Assistant to the Town Administrator. The Board will reconvene in open session in approximately 15 minutes.

The Board returned to open session at 9:37pm.

**A17. Executive Session Minutes: Vote to approve and potentially release with redactions the Executive Session minutes of September 18, 2017; October 30, 2017; and November 6, 2017**  
M. Antes moved, seconded by D. Levine, to approve and release with redactions the Executive Session Minutes of September 18, 2017; October 30, 2017; and November 6, 2017, as amended. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0

**A18. Adjourn** There being no further business before the Board, L. Jurist moved, seconded by D. Levine, to adjourn the meeting of the Board of Selectmen at 9:38 p.m. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: none. Adopted 5-0.

#### **Items Distributed for Information and Use by the Board of Selectmen at the Meeting of December 4, 2017**

1. Letter from Stephen M. Roberts, counsel for Wayland Automotive, dated December 1, 2017, re: Request to Amend November 8, 2017 letter about pre-owned cars at 322 Commonwealth Road, Wayland, MA
2. Notification letter from Richard Devlin and Eli Elias, co-owners of Wayland Automotive, dated November 27, 2017, to neighbors re: public meeting on December 4, 2017
3. Email from Al Taleb, December 4, 2017, re: Wayland Automotive – Residents' concerns
4. Email from Phil Radoff, December 4, 2017, re: Used cars
5. Email from Susan Wagner, December 4, 2017, re: Wayland Automotive – please incorporate into public comment tonight
6. Op-ed by Susan Wager, May 14, 2014, re: Wayland Automotive
7. Slides prepared by Wayland Automotive, December 4, 2017
8. Photographs of the Route 30 sidewalk in front of Wayland Automotive, December 2, 2017, presented by Carole Plumb.
9. Site Plan for 304-322 Commonwealth Road, November 2009, presented by Carole Plumb.
10. Handout prepared by Michael Lowery, re: Committee to plan for repurposing of 5 Concord Road, December 4, 2017
11. Letter from Judy Ling, December 3, 2017, re: Vote to Approve Bonding for a New Library at the Spring 2018 Town Election & Town Meeting
12. Chart and draft Debt Service Schedule prepared by Unibank Fiscal Advisory Services, December 4, 2017
13. Presentation to the Board of Selectmen, December 4, 2017, prepared by Unibank Fiscal Advisory Services
14. Draft FY18 Capital Budget Requests
15. 2018 Capital Projects Status, dated December 4, 2017



**Items Included as Part of Agenda Packet for Discussion During the December 4, 2017 Board of Selectmen's Meeting**

1. Memo from David Porter to Board of Selectmen, re: Class II Used Car Dealer License for Wayland Automotive, 322 Commonwealth Avenue
2. Letter from Stephen M. Roberts, counsel to Wayland Automotive owners Rich Devlin and Eli Elias, dated November 8, re: Request for a hearing to review license to sell pre-owned cars at 322 Commonwealth Road, Wayland, MA, with attached site plan
3. Memo from Nan Balmer to Board of Selectmen, re: Capital Project and Debt, with attached chart of budget projections
4. Town of Wayland Debt Service Schedule, prepared by UniBank Fiscal Advisory Services
5. Board of Selectmen Policy on Proposition 2 ½ Ballot Questions
6. Memo from Nan Balmer, re: FY19 Capital Projects, with attached chart of FY19 Capital Projects for Departments under the Board of Selectmen
7. Draft chart of FY19 Capital Budget Requests
8. FY18 Capital Budget page from the 2017 Annual Town Meeting Warrant
9. Memo from David Porter to Board of Selectmen, re: 2018 License Renewals
10. Draft charge for the 5 Concord Road Advisory Committee, dated December 4, 2017
11. Memo from Nan Balmer, dated December 4, 2017, re: ATM Warrant Opening: Draft Announcement for Board and Committees and Revised Article Form
12. Memo from the Board of Selectmen, dated December 4, 2017, re: 2018 Annual Town Meeting and Annual Town Election
13. Memo from Sarkis Sarkisian, Town Planner, dated December 4, 2017, re: Proposed Articles for the Annual 2018 Spring Town Meeting, with attached list of zoning bylaw revisions
14. Draft minutes of the Board of Selectmen meetings held on November 14, 2017
15. Town Administrator's Report for the week ending December 1, 2017
16. Massachusetts Municipal Association Annual Conference registration form
17. Sudbury, Assabet and Concord Wild and Scenic River Conservation Plan Update Process Summary
18. Youth Advisory Committee, Marijuana Moratorium Timeline and Planning Overview



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# TOWN OF WAYLAND

41 COCHITUATE ROAD  
WAYLAND, MASSACHUSETTS 01778

## BOARD OF SELECTMEN

LEA T. ANDERSON  
MARY M. ANTES  
LOUIS M. JURIST  
CHERRY C. KARLSON  
DOUGLAS A. LEVINE

**Board of Selectmen  
Meeting Minutes  
December 11, 2017  
6:45pm  
Selectmen's Meeting Room  
41 Cochituate Road, Wayland**

**Attendance:** Lea T. Anderson, Cherry C. Karlson, Mary M. Antes, Douglas A. Levine (arrived 6:59pm), Louis M. Jurist

**Also Present:** Town Administrator Nan Balmer

**A1. Call to Order by Chair** Chair L. Anderson called the meeting of the Board of Selectmen to order at 6:45p.m. in the Selectmen's Meeting Room of the Wayland Town Building and noted that the meeting will likely be broadcast and videotaped for later broadcast by WayCAM.

**A2. FY17 Audit: Hear presentation by Melanson Heath on FY17 Audit with Finance Committee and Audit Committee** Scott McIntyre of Melanson Heath came before the Board to discuss the FY17 Audit results and report. Finance Director Brian Keveny, George Uveges, FinCom, and Chris Ryan, Audit Committee, were also in attendance for this agenda item. S. McIntyre stated the audit of the financial statements went very well and financial books and records were in good working order with no disagreements between the town and the firm on application of Generally Accepted Accounting Principles. This is Wayland's third year producing a comprehensive annual financial report (CAFR). He went over the report and discussed basic financial statements both long term and short term. He discussed the town's net pension liability and net OPEB obligation estimated amounts and upcoming reporting changes.

D. Levine arrived at 6:59pm.

S. McIntyre explained changes to the unassigned fund balance number. Total revenues came in greater than anticipated for FY17 led by tax collection efforts and unspent appropriations. Management letter recommendations include: improve automation in tax collector's office, improve controls over payroll, and adhere to a formal water billing schedule. The Town has not yet responded to the Management letter. C. Karlson thanked the Finance Director and Treasurer for their hard work on behalf of the Town's finances. L. Anderson thanked the Audit Committee.

The Board announced that due to the changes in federal tax regulation the tax office will accept early payments of 3<sup>rd</sup> and 4<sup>th</sup> quarter before Jan. 2 and it will be credited as a 2017 payment. This information is also posted online.

**A3. Public Comment** Mike Lowery, Lakeshore Dr., discussed the three reasons he is opposed to Wayland petitioning probate court on alternative uses for the 5 Concord Road building. He distributed a copy of his comments.

Charlie D'Ambrosio, 17 Williams Road, updated the Board on the recent activity of the group that opposes Oxbow Meadows.

Lina Russo, 408 Trout Brook, gave the Board two expense estimates for constructing a separate entrance to Oxbow Meadows.

Gretchen Schuler, 126 Old Connecticut Path, stated her reasons why the town building could be a possible location for a larger and improved COA/CC rather than using a location at the town center.

Linda Segal, Aqueduct Road, explained her objection to the town using tax dollars to pursue legal options for the reuse of 5 Concord Road.

Steve Klitgord, 274 Concord Rd., stated he's concerned what the impact would be for the town if they spent capital money on the "big 4" with the new federal tax changes.

Town Engineer Paul Brinkman came before the Board to discuss the consent agenda item to sign an amendment to the Land Disposition Agreement for River's Edge to extend the due diligence period through Feb. 28, 2018. He explained that we are waiting on action from DEP and also discussed the process going forward.

**A4. Community Compact Best Practice Project: Meet with Michael Ward, Director of Government Services at the Collins Center, regarding proposal for a Town Administrator Special Act; discuss next steps:** Using the October 2017 draft Financial Management Structure Review report, M. Ward discussed how the town could advance some of the findings and recommendations found in the report. He drafted a Town Administrator Special Act, which could be one possible path towards implementing the recommendations. M. Ward briefly went over the main points in the report and the act. L. Anderson asked if there are other things the town can be doing. L. Jurist asked what the Board's strategy is going forward. The Board was interested to see how the role of the Finance Committee would fit into future discussion. The Board asked if the current level of staffing in the Town Administrator's office could handle these changes. N. Balmer said yes, it's just a matter of reorganization. C. Karlson said whether or not Wayland is ready for these steps, they are good management practices. Ultimately it will come down to a ballot vote and Town Meeting discussion and vote to decide. The Board agreed that additional in depth discussion of the reorganization of positions and roles in the report is needed. L. Anderson said further questions can be funneled through N. Balmer

**A5. Liquor License Hearing: Application filed by Mason Mack Petroleum, LLC dba Wayland Gulf, for a new off-premise Annual Wine and Malt Beverage License, at 28 Boston Post Road; Vote on application filed by Mason Mack Petroleum for an Annual Package Store License to sell wines and malt** L. Anderson opened the Public Hearing at 8:05pm and gave an overview of the process noting the materials in the Board's packet. Applicant Manheim Mack described his business as a gas and convenience store which they bought in July 2017, and explained he is applying for an Annual Wine and Malt Beverage License to answer demand from local customers. L. Jurist questioned whether another store selling alcohol is necessary in the area.

L. Anderson asked for questions from attendees:

Mike Lowery, Lakeshore Dr., asked how many filling stations in Wayland might have a similar request. M. Mack said he's not aware of any other filling stations with a convenience store. M. Lowery said he's concerned about compliance and enforcement. M. Mack stated they now strictly adhere to tobacco and EPA standards so have experience with compliance issues.

Linda Segal, 9 Aqueduct Rd., asked the Board what other MetroWest towns have given this type of license to a combination gas station/convenience store.

Town Counsel Carolyn Murray explained what would happen to the license if applicant closed his business or moved locations. She said other communities have had similar situations and there was the



same hesitation to grant the license. She said towns have to weigh the public's need and the public's want in considering the license.

There being no other comments or questions from attendees or the Board, L. Anderson closed the Public Hearing at 8:24pm. The Board started its deliberations.

L. Anderson noted the Police Chief's comments and the Fire Chief's report of full compliance. M. Antes said she doesn't see anything that would disqualify them and has no objections. L. Jurist said he agrees, but doesn't think there is a community need. D. Levine said he's torn and stated they had a very logical presentation tonight. He said he's thinking about the character of the town. Both C. Karlson and L. Anderson stated they are on the fence when looking at the issue from a public need point of view.

D. Levine moved, seconded by M. Antes, that the Board of Selectmen vote to approve the license application of Mason Mack, LLC for an off-premise liquor license to sell wine and malt at the Wayland Gulf convenience store located at 28 Boston Post Road. YEA: L. Anderson, M. Antes, L. Jurist, D. Levine. NAY: C. Karlson. ABSENT: none ABSTAIN: Adopted 4-1.

**A6. 2018 License Renewal: Vote to approve renewal of liquor licenses, common victualler licenses, entertainment licenses, and used car dealer licenses** D. Porter, Executive Assistant to the Town Administrator, came before the Board to present an updated list of licenses for 2018 (updated from information in packet). D. Porter noted that two establishments are not yet ready for review and he explained the follow up still needed. D. Porter and Ken Phillips, a representative from The Dudley Chateau, discussed the change in management and beneficial interest situation with this business and asked who can legally sign the Liquor License renewal this year. D. Porter said he discussed this with town counsel and the renewal license can be signed by anyone who has a beneficial interest. It was suggested that the current beneficial interest sign this year's renewal form, then they go through the process to change the manager and beneficial interest. The Board agreed with this approach.

C. Karlson moved, seconded by M. Antes, to approve the following Auto Dealer Licenses for 2018: Herb Chambers of Wayland including all dba's, State Road Auto Body, and Wayland Foreign Motors. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0

C. Karlson moved, seconded by M. Antes, to approve the following Entertainment Licenses for 2018: China Rose and Starbucks. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0

C. Karlson moved, seconded by M. Antes, to approve the following Common Victuallers Licenses for 2018: China Rose, the Dudley Chateau of Cochituate Inc., The Local Restaurant of Wayland LLC dba The Local Restaurant, New Sandy Burr Inc., Spice 'n Pepper (Aprileileen Corporation), and Starbucks. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0

C. Karlson moved, seconded by M. Antes, to approve the Liquor License for 2018 for New Sandy Burr, Inc.; and to approve a Liquor License for 2018 for the Dudley Chateau contingent upon receiving a properly signed application. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0

**A7. 5 Concord Road: Review draft of Town Counsel petition to Probate Court** Town Counsel C. Murray briefly reviewed the background of 5 Concord Road and legally what could be done with the existing portion of the building that sits on the Roby parcel. The Board authorized KP-Law to go forward with drafting a petition seeking clarification on using the building for other uses or for other library uses. The Library Planning Committee made suggestions to the Board, including using the parcel as a cultural center for visual arts or as a technology center. The Board liked both of the suggestions. C. Murray noted that both suggestions are related to the uses of a current modern library. There is an argument to be made that the

parcel still continues library practices. She stated the purpose of the draft petition presented is to deviate from the terms of the deed stating it will not be used as primary/sole library for the town. C. Murray described the process going forward with the Probate Court. The Board asked questions and gave some suggestions for revisions of the draft.

Larry Orloff, Glezen Lane, thinks 5 Concord Road could be a branch library but that Wayland is too small of a town to take on those additional costs.

**A8. FY19 Capital Projects: Review priorities** N. Balmer stated that FinCom has requested information about the Board's priorities regarding the FY19 Capital Projects. She discussed recommendations from the Public Buildings Director, Finance Director, IT Director, and staff, and briefly went over all of the Capital Projects. She stated the total amount of money for the capital projects without a debt exclusion. C. Karlson asked questions regarding costs, timing, and ability to complete projects.

The Board worked to prioritize the capital items. Members agreed that items 10 and 11 should go forward. C. Karlson said she would like to see departments spend the money they have already appropriated in years prior before requesting new project funds. N. Balmer said she brought D. Watkins' questions and comments about the MUNIS Module to IT Director J. Pazos and the resulting information is in the packet. N. Balmer asked what the Board wants to do with the Town Building renovations project. C. Karlson said she's disappointed it could be pushed off until FY20. After discussion, the Board decided to put projects 4 (town building mechanical), 5 (Fire Station 2 renovations), 10 (MUNIS module), at the top of the priority list in the 1<sup>st</sup> category; projects 3 (town building renovations), 11 (Fire vehicle – ambulance receipts), 12 (Conservation tractor) in the 2<sup>nd</sup> category; and project 2 (town building window design) in the 3<sup>rd</sup> category. Projects funded by CPC funds (1 Library windows and 6 Depot repairs) were not prioritized as they will be separate articles, not part of the budget article.

**A9. FY19 Debt Exclusions: Discuss Board policy and position on project funding** N. Balmer asked the Board if they want to use a debt exclusion for funding town building improvements and Fire Station 2 renovations. If so, she will start putting it together. C. Karlson asked her what she needs to start the process. The Board is happy to consider debt exclusions for large projects, but first would like a presentation on those large projects from FinCom. The Board stated they would consider a letter to FinCom requesting debt exclusion funding to start the process. L. Anderson asked if it makes sense to do a debt exclusion on the fourth item, Town building mechanical repairs.

**A10. ATM Discussion: Review potential articles for Board sponsorship, ATM schedule/Special Town Meeting** N. Balmer provided a list to the Board of potential articles and asked if they wanted to remove any of them. She said the Planning Board with the Youth Advisory Committee will come to talk about a possible marijuana opt out article at the Jan. 8, 2018 meeting. The Board suggested moving Article 14 (annual revolving fund caps) up to standard articles and noted that consideration of Article 22 (Special Act for TA) is premature at this time. N. Balmer stated the Moderator does plan to have a forum, but has not set a date.

**A11. Report of the Town Administrator**

- 1. Correspondence** The Attorney General disapproved ATM Warrant Article 14: Limited Site Plan Approval due to a procedural error with regards to advertising.
- 2. Update on Oxbow Meadows construction contract:** The project is going back to Conservation Commission on Dec. 21 for further review and potential resiting.
- 3. Board of Selectmen meeting schedule:** Schedule through ATM is included in packet.

**A12. Minutes: Vote to approve minutes of November 20, November 27** C. Karlson moved, seconded by M. Antes, to approve the minutes of November 20, 2017 and November 27, 2017 as amended. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none  
ABSTAIN: Adopted 5-0

**A13. Consent Calendar: Review and vote to approve (See Separate Sheet)** M. Antes moved, seconded by C. Karlson, to approve the Consent Calendar. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: Adopted 5-0

**A14. Review Correspondence:** (See Separate Index Sheet) C. Karlson stated from an organizational perspective, items 2, 3, 4 are all part of item number 2 and do not need to be listed separately. N. Balmer noted this for future packets.

**A15. Selectmen's Reports and Concerns** None.

**A16. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any** The Chair said, "I know of none."

**A17. Adjourn** There being no further business before the Board, D. Levine moved, seconded by L. Jurist, to adjourn the meeting of the Board of Selectmen at 10:10 p.m. YEA: L. Anderson, M. Antes, C. Karlson, L. Jurist, D. Levine. NAY: none. ABSENT: none ABSTAIN: none. Adopted 5-0.

**Items Distributed for Information and Use by the Board of Selectmen at the Meeting of December 11, 2017**

1. Handout prepared by Michael Lowery, re: Public Comment: Petition to Probate Court re 5 Concord Road, December 11, 2017
2. Handouts prepared by Gretchen Schuler, re: Public Comment – Town Building and COACC
3. Handouts prepared by Steven Klitgord, 274 Concord Road, re: 2018 Tax Changes will Impact Wayland Residents, December 11, 2017
4. Handout – Charlie D'Ambrosio – re: Public Comment to BOS (Oxbow Meadows), December 11, 2017
5. Estimate from Weston Property Management for tree removal and installation of separate gravel driveway, submitted by Lina Russo, dated December 6, 2017
6. Estimate from Shaun Powers for tree removal and installation of separate gravel driveway, submitted by Lina Russo, dated December 9, 2017
7. DRAFT of An Act Relative to the Position of Town Administrator in the Town of Wayland
8. Procedure for Liquor License Hearing to consider the application of Mason Mack Petroleum, LLC
9. GIS Map showing 28 Boston Post Road and intersection with Old Connecticut Path for use during the Mason Mack liquor license hearing
10. Revised memorandum from David Porter, re: 2018 License Renewals
11. Board of Selectmen schedule through 2018 Annual Town Meeting
12. Press Release from the Wayland Treasurer's Office re: Opportunity to pre-pay third and fourth quarter real estate taxes

**Items Included as Part of Agenda Packet for Discussion During the December 11, 2017 Board of Selectmen's Meeting**

1. Management Letter for Year Ended June 30, 2017
2. Comprehensive Annual Financial Report for the Fiscal Year Ending June 30, 2017
3. Email from Michael Ward and Frederick Kingsley, dated December 7, 2017, re: Draft TA special for discussion.
4. Draft Act Relative to the Position of Town Administrator in the Town of Wayland
5. Memorandum from David Porter, re: Application of Mason Mack Petroleum d/b/a Wayland Gulf for a new wine and malt license
6. Retail Application of Mason Mack Petroleum for a new Wine and Malt License
7. Draft Petition to Probate Court, dated December 7, 2017
8. Memorandum from Nan Balmer, re: Annual Town Meeting Discussion g. 2018 Annual Town Meeting:
9. Potential Articles as of December 11, 2017.



10. Annual Town Meeting schedule
11. Memorandum from Nan Balmer, re: FY19 debt exclusions
12. Board policy on debt exclusions
13. Memorandum from Nan Balmer, re: Review capital budget priorities and make any recommendations to the Finance Committee on priority projects
14. Staff recommendations on FY19 capital projects -12/11/17 (for departments under the Board of Selectmen)
15. Memorandum from Jorge Pazos, IT Director, re: MUNIS revenue module capital request
16. Information Technology Network Infrastructure Capital Plan
17. Memorandum from David Houghton, Fire Chief, re: Capital Items
18. Memorandum from David Porter, dated December 11, 2017, re: 2018 License Renewals
19. Town Administrator's Report for the week ending December 8, 2017
20. Board of Selectmen Schedule through 2018 Annual Town Meeting
21. Draft Minutes from November 20, 2017 and November 27, 2017

DRAFT

## **BOARD OF SELECTMEN**

**Monday, January 8, 2018  
Wayland Town Building  
Selectmen's Meeting Room  
41 Cochituate Road Wayland**

### **CONSENT CALENDAR**

1. Vote the question of approving and signing the weekly payroll and expense warrants
2. Vote the question of approving the invoice for KP Law, dated December 22, 2017, Invoice No. 114390, for legal services rendered through November 30, 2017: \$3,444.95
3. Vote the question of approving the invoice for Mark J. Lanza, dated November 30, 2017, for legal services rendered through November 21, 2017: \$245.00
4. Vote the question of approving the invoice for Mark J. Lanza, dated December 31, 2017, for legal services rendered through December 29, 2017: \$274.40
5. Vote the question of approving the invoice for Deutsch Williams, dated December 5, 2017, Invoice No. 195, for legal services rendered through November 30, 2017: \$2,767.00
6. Vote the question of approving the renewal of a Common Victualler's License for PR Restaurants LLC dba Panera Bread Bakery-Café, 21 Andrew Avenue.
7. Vote the question of approving the request of Broomstones, Inc., 138 Rice Road (One Curling Lane), for an extension of the hours during which alcoholic beverages may be sold until 1:00 a.m. on Saturday, January 13; Friday, January 26; and Saturday, January 27, 2018, for the annual Men's Tournament finals and the Grand National Curling Club Senior Men's Championship.
8. Vote the question of approving the application to sell wine at the Wayland Winter Farmers' Market at Russell's Garden Center, 397 Boston Post Road, for Aaronap Cellars, Noel A. Powell, manager, on three Saturdays: January 20, February 10, and March 10, 2018, from 10:00 a.m. to 2:00 p.m.
9. Vote the question of approving the application to sell wine at the Wayland Winter Farmers' Market at Russell's Garden Center, 397 Boston Post Road, for Westport Rivers Vineyard and Winery, Yvonne Rogers, manager, on three Saturdays: February 3, February 10, and February 17, 2018, from 10:00 a.m. to 2:00 p.m.
10. Vote the question of approving the application to sell wine at the Wayland Winter Farmers' Market at Russell's Garden Center, 397 Boston Post Road, for Coastal Vineyards, David Neilson, manager, on five Saturdays: January 13, January 27, February 10, February 24, and March 10, 2018, from 10:00 a.m. to 2:00 p.m.
11. Vote the question of approving the application to sell wine at the Wayland Winter Farmers' Market at Russell's Garden Center, 397 Boston Post Road, for Artisan Beverage Cooperative, Garth Shaneyfelt, manager, on three Saturdays: January 13, February 10, and March 3, 2018, from 10:00 a.m. to 2:00 p.m.
12. Vote the question of approving the application to sell wine at the Wayland Winter Farmers' Market at Russell's Garden Center, 397 Boston Post Road, for Stoneybrook Cider, Michael Lamontage, manager, on three Saturdays: January 20, February 10, and March 10, 2018, from 10:00 a.m. to 2:00 p.m.
13. Vote the question of approving the application to sell wine at the Wayland Winter Farmers' Market at Russell's Garden Center, 397 Boston Post Road, for Turtle Creek Winery, Kip Kumler, manager, on three Saturdays: January 6, February 10, and February 24, 2018, from 10:00 a.m. to 2:00 p.m.
14. Vote the question of approving the application to sell wine at the Wayland Winter Farmers' Market at Russell's Garden Center, 397 Boston Post Road, for Mill River Winery, Rick Rousseau, manager, on five Saturdays: January 6, January 20, February 10, February 24, and March 3, 2018, from 10:00 a.m. to 2:00 p.m.



**BOARD OF SELECTMEN**  
**Monday, January 8, 2018**  
**Consent Calendar**  
**Page 2**

15. Vote the question of approving the application to sell wine at the Wayland Winter Farmers' Market at Russell's Garden Center, 397 Boston Post Road, for 1634 Meadery, Dan Clapp, manager, on four Saturdays: January 13, January 27, February 10, and March 10, 2018, from 10:00 a.m. to 2:00 p.m.
16. Vote the question of approving the application to sell wine at the Wayland Winter Farmers' Market at Russell's Garden Center, 397 Boston Post Road, for Carr's Ciderhouse, Nicole Blum, manager, on four Saturdays: January 6, January 27, February 10, and March 3, 2018, from 10:00 a.m. to 2:00 p.m.
17. Vote the question of approving the placement of four temporary sandwich board signs from January 9 through January 15, 2018, at Route 20 at the Weston Town Line, Route 20 at the Intersection of Route 27, the Intersection of Old Connecticut Path and Routes 126 and 27, and the Cochituate Fire Station at the Corner of East Plain Street, advertising the Curious Creatures program at the Claypit Hill Elementary School on January 15, sponsored by the Wayland Children and Parents Association.



RECEIVED

JAN 02 2018

Board of Selectmen  
Town of Wayland

**KP LAW, P.C.**

101 ARCH STREET  
BOSTON, MA 02110  
(617) 556-0007

INVOICE NO: 114390

WAYLAND TAX  
MS. NAN BALMER  
WAYLAND TOWN HALL  
41 COCHITUATE ROAD  
WAYLAND, MA 01778

IN REFERENCE TO: PROFESSIONAL SERVICE THROUGH      November 30, 2017  
December 22, 2017

TOTAL FEES:	\$471.75
TOTAL COSTS:	<u>\$2,973.20</u>
BALANCE DUE:	<u>\$3,444.95</u>

Mark J. Lanza  
Attorney at Law  
9 Damonmill Square - Suite 4A4  
Concord, MA 01742  
Tel. # (978) 369-9100  
Fax # (978) 369-9916  
e-mail: mjlanza@comcast.net

INVOICE - TOWN OF WAYLAND - 11/30/2017

SUMMARY

FEE CALCULATION: 1.4 HOURS X \$175.00 PER HOUR =	\$ 245.00
DISBURSEMENTS (See below for detail)	0.00
TOTAL 11/30/17 INVOICE.....	<u>\$ 245.00</u>

DISBURSEMENTS

Total Disbursements \$ 0.00

RECEIVED

DEC 14 2017

Mark J. Lanza  
Attorney at Law  
9 Damonmill Square - Suite 4A4  
Concord, MA 01742  
Tel. # (978) 369-9100  
Fax # (978) 369-9916  
e-mail: mjlanza@comcast.net

RECEIVED  
JAN 02 2018  
Board of Selectmen  
Town of Wayland

INVOICE - TOWN OF WAYLAND - 12/31/2017

SUMMARY

FEE CALCULATION: 1.1 HOURS X \$175.00 PER HOUR =	\$ 192.50
DISBURSEMENTS (See below for detail)	81.90
TOTAL 12/31/17 INVOICE.....	<u>\$ 274.40</u>



DEUTSCH WILLIAMS BROOKS  
 DeRENSIS & HOLLAND, P.C.  
 ONE DESIGN CENTER PLACE, SUITE 600  
 BOSTON, MASSACHUSETTS 02210-2327  
 (617) 951-2300  
 Fax (617) 951-2323

\*\*\*\*\*  
 INVOICE FOR LEGAL SERVICES  
 \*\*\*\*\*

Page 1

12/05/2017

Account No. 5673-01M

Invoice No. 195

Town of Wayland  
 Town Building  
 41 Cochituate Rd.  
 Wayland MA 01778

RECEIVED

DEC 07 2017

Attn: Town Administrator

Labor

FOR CURRENT SERVICES RENDERED

13.50 2,700.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Elizabeth B. Valerio (EBV)	4.65	\$200.00	\$930.00
W. H. Chu (WHC)	8.85	200.00	1,770.00

Town of Wayland

Page 3

12/05/2017

Account No. 5673-01M

Invoice No. 195

Labor

Mileage expense	60.30
Photocopying	5.70
Parking	1.00
TOTAL EXPENSES THRU 11/30/2017	67.00
TOTAL CURRENT INVOICE	2,767.00
BALANCE DUE	<u>\$2,767.00</u>

DATE: January 8, 2018  
TO: Board of Selectmen  
FROM: David Porter, Executive Assistant to the Town Administrator and Board of Selectmen  
RE: Renewal of Common Victualler's License for PR Restaurants LLC dba Panera Bread Bakery-Cafe

When the Board of Selectmen voted to approve other Common Victualler's Licenses in December 2017, PR Restaurants LLC had an unpaid property tax balance. PR Restaurants LLC has paid the balance and met all other requirements for a Common Victualler's License.



January 2, 2018

Broomstones Request for Late Hour

To the Board of Selectmen

Broomstones Curling Club is hosting our annual Men's tournament on January 11-13<sup>th</sup> 2018. We would like to request one addition hour of bar operation on Saturday the 13<sup>th</sup> as it is the finals evening with the actual finals not coming off the ice until 11:30 (if they play fast). We would request permission to close on Saturday January 13<sup>th</sup> at 1am.

Broomstones is also hosting the GNCC (Grand National Curling Club) Senior Men's Championship with weekend of January 25 – 28<sup>th</sup>. We are expecting teams from up and down the eastern United States to come and compete. With this event we would also like to request an additional late hour for Friday the 26<sup>th</sup> and Saturday the 27<sup>th</sup> which would allow us to close our bar at 1am.

Thanks for your consideration and Happy New Year!

Kathy Holewa

Broomstones Bar Manager





December 18, 2017

Via Email ([dporter@wayland.ma.us](mailto:dporter@wayland.ma.us))

Mr. David Porter  
Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778

**Re: Signboard Request**

Dear Mr David Porter:

The Wayland Children and Parents Association is hosting a Curious Creatures program at the Claypit Hill Elementary School on Monday, January 15th.

We are requesting permission to post our sandwich boards to promote this event starting January 9th, 2018 at the following locations:

- "Five Corners" of Rt. 126 and Route 27
- Cochituate Fire Station
- Corner of Route 20 and Route 27
- Coach Grill

Thank you for your consideration and we look forward to hearing from the Selectmen regarding our request.

Sincerely,  
Tiffany Barchard  
WCPA Community Marketing

**PUBLIC DOCUMENTS PROVIDED TO THE BOARD OF SELECTMEN FROM  
DECEMBER 9, 2017, THROUGH AND INCLUDING JANUARY 5, 2018,  
OTHERWISE NOT LISTED AND INCLUDED IN THE CORRESPONDENCE  
PACKET FOR JANUARY 8, 2018**

**Items distributed to the Board of Selectmen – December 9, 2017-January 5, 2018**

1. None

**Items distributed for information and use by the Board of Selectmen at the  
Meeting of December 11, 2017**

1. Handout prepared by Michael Lowery, re: Public Comment: Petition to Probate Court re 5 Concord Road, December 11, 2017
2. Handouts prepared by Gretchen Schuler, re: Public Comment – Town Building and COACC
3. Handouts prepared by Steven Klitgord, 274 Concord Road, re: 2018 Tax Changes will Impact Wayland Residents, December 11, 2017
4. Handout – re: Public Comment to BOS (Oxbow Meadows), December 11, 2017
5. Estimate from Weston Property Management for tree removal and installation of separate gravel driveway, submitted by Lina Russo, dated December 6, 2017
6. Estimate from Shaun Powers for tree removal and installation of separate gravel driveway, submitted by Lina Russo, dated December 9, 2017
7. DRAFT of An Act Relative to the Position of Town Administrator in the Town of Wayland
8. Procedure for Liquor License Hearing to consider the application of Mason Mack Petroleum, LLC
9. GIS Map showing 28 Boston Post Road and intersection with Old Connecticut Path for use during the Mason Mack liquor license hearing
10. Revised memorandum from David Porter, re: 2018 License Renewals
11. Board of Selectmen schedule through 2018 Annual Town Meeting
12. Press Release from the Wayland Treasurer's Office re: Opportunity to pre-pay third and fourth quarter real estate taxes

**Items included as part of Agenda Packet for discussion during the January 8, 2018  
Board of Selectmen's Meeting**

1. Email dated January 3, 2018 from Dan Hill, Chair of the Planning Board, to Nan Balmer and Sarkis Sarkisian, re: Meet with Board of Selectmen, with two attachments: Off Street Parking Zoning Amendment and Limited Site Plan Review Zoning Amendment
2. Memorandum dated January 8, 2018 from David Porter to the Board of Selectmen, re: Appointments to the Senior Tax Relief Committee, the Economic Development Committee, and the Council on Aging/Community Center Advisory Committee (with attached letters and resumes from prospective committee members)
3. Warrant Article Process: Guide for Petitioners
4. Form for petitioners to submit an article for Wayland Town Meeting
5. Board of Selectmen policy on Petitioners' Access to Town Counsel
6. Memorandum dated January 8, 2018 from David Porter to the Board of Selectmen, re: Application of Dudley Chateau LLC for a new annual on-premises all alcoholic beverages license
7. Procedure for Liquor License Hearing
8. Copy of the legal notice published in the Wayland-Weston *Town Crier*, dated 12/28/2017
9. Memorandum dated January 3, 2018 from Chief Swanick, re: Dudley Chateau Liquor Application
10. Application for a Retail Alcoholic Beverages License, submitted by Mandy Phillips, owner of Dudley Chateau LLC, received December 18, 2017
11. Memorandum dated January 8, 2018 from Jorge Pazos, IT Director, re: New Town Website



**BOARD OF SELECTMEN**  
**Monday, January 8, 2018**  
**Public Documents**  
**Page 2**

12. Memorandum dated January 8, 2018 from Nan Balmer, re: Capital Projects and Town Building Repairs (with attached request for Town Meeting article)
13. Memorandum dated January 8, 2018 from Nan Balmer, re: Proposition 2 ½ Debt Exclusion for Town Building and Fire Station Two Building Improvements
14. Memorandum dated January 8, 2018 from Nan Balmer, re: Annual Town Meeting Articles (with attached warrant articles)
15. Report of the Town Administrator for week ending January 5, 2018
16. Draft Minutes of the Board of Selectmen meetings held on December 4, 2017 and December 11, 2017



**BOARD OF SELECTMEN**  
**Monday, January 8, 2018**  
**Wayland Town Building**  
**Selectmen's Meeting Room**

**CORRESPONDENCE**

**Selectmen**

1. Monthly Report from the Wayland Police Department, December 2017
2. Disclosure of Appearance of Conflict of Interest as Required by G.L.c. 268A, §23(b)(3), filed by Michael J. Staiti, Trustee of the Wayland Municipal Affordable Housing Trust, received December 12, 2017
3. Letter dated December 13, 2017 from Brian Boggia, Executive Director of the Wayland Housing Authority, to Yong Shu Xie and Xiao Yun Huang, re: Approval of request for capital improvements
4. Memorandum dated December 15, 2017 from Linda Hansen, Conservation Administrator, re: Open Capital Projects
5. Email dated January 4, 2018 from Megan Lucier, re: Spring Election Planning
6. Email dated January 4, 2018 from Cynthia Lavenson, re: Resident's Input on Debt Exclusion Ballot Question
7. Email dated January 4, 2018 from Lisa Valone, re: Debt Exclusion Question at the Polls and Finding a Gender Neutral Name for Your Committee

**Legal**

8. Letter dated December 12, 2017 from Jeffrey T. Blake of KP Law, re: Cochituate Commons, LLC v. Town of Wayland, Middlesex Superior Court, C.A. No. 1781CV03321 (with enclosure)
9. Letter dated December 14, 2017 from Katharine Klein of KP Law, re: Town of Wayland – 52-60 Rice Road
10. Verified Complaint, received December 14, 2017, in Dennis Sullivan v. Kenneth and Mandy Phillips; Town of Wayland and Alcoholic Beverages Control Commission, Middlesex Superior Court, C.A. No. 1781CVO3623
11. Notice of Hearing on Plaintiff Dennis Sullivan's Motion for an Injunction, received December 14, 2017, in Dennis Sullivan v. Kenneth and Mandy Phillips; Town of Wayland and Alcoholic Beverages Control Commission, Middlesex Superior Court, C.A. No. 1781CVO3623
12. Letter dated December 18, 2017 from Brian Riley of KP Law, re: Dennis Sullivan v. Kenneth and Mandy Phillips; Town of Wayland and Alcoholic Beverages Control Commission, Middlesex Superior Court, C.A. No. 1781CV03623
13. Letter dated December 20, 2017 from Brian Riley of KP Law, re: Answer of the Town of Wayland in Dennis Sullivan v. Kenneth and Mandy Phillips; Town of Wayland and Alcoholic Beverages Control Commission, Middlesex Superior Court, C.A. No. 1781CVO3623
14. Letter dated December 5, 2017 from Amy Kwesell of KP Law, re: Kenneth T. Nelson v. Town of Wayland Board of Health, et al., Middlesex Superior Court, C.A. No. 1781CV03336 (with enclosures: Notice of Appearance and Defendants' Opposition to Plaintiff's Motion for Preliminary Injunction)
15. Letter dated December 19, 2017 from Amy Kwesell of KP Law, re: Kenneth T. Nelson v. Town of Wayland Board of Health, et al., Middlesex Superior Court, C.A. No. 1781CV03336 (with enclosure)
16. Letter dated December 20, 2017 from Jeffrey L. Roelofs, P.C., re: David Bernstein & others v. Town of Wayland Planning Board & others, No. 2017-P-1567 (Massachusetts Appeals Court)



**BOARD OF SELECTMEN**  
**Monday, January 8, 2018**  
**Correspondence**  
**Page 2**

**Minutes**

17. Minutes of the Personnel Board, October 16, 2017
18. Minutes of the Personnel Board, November 13, 2017
19. Minutes of the Personnel Board, November 20, 2017

**State and Regional**

20. Notice of Filing, Public Hearings, and Procedural Conference, dated December 5, 2017, from the Commonwealth of Massachusetts Department of Public Utilities, re: National Grid Petition for Approval of General Increases in Base Distribution Rates for Gas Service
21. Letter dated December 12, 2017 from Geoffrey C. Beckwith, Executive Director & CEO of the Massachusetts Municipal Association, re: Voting procedure at the Annual Business Meeting to be held on Saturday, January 20, 2018.



# WAYLAND POLICE DEPARTMENT

WAYLAND, MASSACHUSETTS 01778



PATRICK SWANICK  
CHIEF OF POLICE

## Monthly Report - December 2017

---

On December 7, 2017, at 5:57 p.m. Officers responded to the AT&T store located at 35 Andrew Avenue for a report of a robbery in progress. An African American male, wearing a black sweatshirt, black pants, with white shoes ran out of the store with 2 iPhones valued at \$1800. Officers searched the area, but were unable to locate the suspect.

Wayland detectives obtained surveillance photos of the subject from the store security system. The photographs were shared with area detectives. The suspect was positively identified, and wanted for similar robberies in the Boston-Metro area. Detectives obtained an arrest warrant for the individual.

On December 29, 2017 Officers approached a residence on Main Street concerning an illegally parked vehicle. While speaking with the resident, a 19 year old male, officers noticed that he and underage guests at the home were drinking alcohol. Officers contacted parents and made arrangements to safely transport everyone home. The individual was summonsed to court for Furnishing Alcohol to Minors.

On December 31, 2017 police and EMS were dispatched to Michael Road for a highly intoxicated 16 year old female. Officers contacted parents and made arrangements to safely transport everyone home. The host, a 16 year old male, was summonsed to court for Furnishing Alcohol to Minors. The Wayland police have recommended that this case be sent to the Court Diversion Program in lieu of criminal charges.

On December 31, 2017 officers made 2 arrests for Operating Under the Influence of Alcohol. At 1:49 a.m. officers stopped an erratic operator in the parking lot of 55 Boston Post Road. A 37 year old Framingham man was charged with OUI. At 3:11 a.m. officers approached a vehicle that was parked in the travel lane in the area of 450 Boston Post Road. The vehicle was running and the operator, a 48 year old male from Nashua, NH was passed out behind the wheel. He was placed under arrest for OUI.

Each year the Wayland Police Department collects new unwrapped toys for the "Toys for Tots" program. This year we collected 3 pick-up truck loads of toys that were delivered to children in need.

The Wayland Police has entered a partnership with Communities for Restorative Justice. Communities for Restorative Justice is a community-police partnership that offers restorative justice to those affected by crime. Our "circle" process recognizes that crime is a violation of



people and relationships, not just a violation of law. We receive police referrals and seek to include *those affected* by crime in the decision-making: victims, offenders, loved ones, supporters, community members, and law enforcement officials.

Our mission is to provide regional communities with a complement to the traditional judicial system wherein:

- Victims of crime are given the opportunity to address the person(s) who have harmed them, to ask questions in a safe environment, and to share ideas on ways that the harm can be repaired.
- Offenders better understand the impact of their actions, are held accountable, and encouraged to make amends to those they have harmed.
- The community offers support for the process, strengthening community connections, and engaging in matters of concern to its members

The Wayland Police will refer cases that meet the criteria to this program.

Have a Safe, Healthy and Prosperous New Year!

Patrick Swanick

Chief of Police

## **Memorandum**

**12/29/17**

**To: Chief Patrick Swanick**

**From: Detective Sergeant Jamie D. Berger**

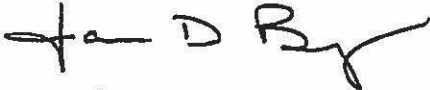
**Subject: December 2017 Monthly Detective Division Report**

---

Chief,

Please find the attached Detective Division monthly report for December 2017. If you have any questions, please feel free to ask.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ja D Berger". The signature is written in a cursive style with a large, stylized "B" at the end.

Detective Sergeant Jamie D. Berger

**Wayland Police Department Detective Division Report for December 2017**

**INVESTIGATIONS**

Motor Vehicle Burglary – Damon Street  
Noise Complaint – Emerson Road  
Sexual Assault  
Credit Card Fraud – Andrew Avenue  
Larceny over \$250 – Boston Post Road  
Larceny over \$250 – Andrew Avenue  
Larceny over \$250 – Joyce Road  
Larceny over \$250 – Claypit Hill Road  
Check Fraud – Campbell Road  
Suspicious Activity – High Rock Road  
Suspicious Activity – Simpson Road  
Suspicious Activity – White Road  
Suspicious Activity – Wisteria Way  
Civil Matter – Boston Post Road

**MEETINGS/TRAININGS**

Evidence Room Audit for LE Administrators – Bellingham PD – MPI  
“BEERS” – Basic Evidence Recovery - MPI  
Youth Advisory Committee Meeting  
Wayland Cares

**MISCELLANEOUS**

Background Investigation – Dispatcher  
Monthly PBT Testing  
Framingham District Court – MV Hearings/Appeals/Criminal Hearings  
Tobacco Compliance Checks  
Alcohol Compliance Checks  
ALICE – Wayland Middle School  
ALICE – Happy Hollow School  
Evidence Room Audit

**COMMUNITY SERVICES**

Toys for Tots  
Council on Aging – prescription take back  
RAD Class Administration





## COMMUNITIES FOR RESTORATIVE JUSTICE

Acton, Arlington, Bedford, Boxborough, Burlington, Cambridge, Carlisle, Concord, Groton, Hudson, Lexington, Lincoln, Littleton, Maynard, Newton, Stow, Sudbury, Wellesley

*Communities for Restorative Justice (C4RJ) partners with 18 police departments and accepts referrals from the Middlesex County District Attorney's Juvenile Diversion Program. Here's a story about how C4RJ works and what your gift makes possible:*

**O**n Thanksgiving Day, a man in his early 20s did something he later described as "impulsive, childish, and immature." As he had many times before, he passed a church and the "Black Lives Matter" banner in front of it. That day, the sign annoyed him. He bought some supplies and returned to the church, where he defaced the banner to read "All Lives Matter."

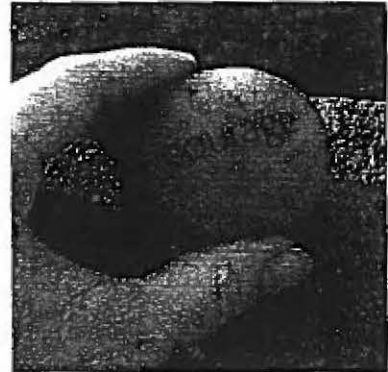
This was more than vandalism. In Massachusetts, defacing church property is a **felony**.

After the Arlington Police apprehended him, the young man faced a choice. He could plead not guilty and go to court, with a felony arraignment permanently on his criminal record. Or he could participate in a restorative justice program that the Arlington Police Department supports. He chose C4RJ.

C4RJ staff and volunteers brought together all of the parties: the offender, members of the congregation, and the Chief of Police. In the opening restorative circle, all described their experiences, and all were able to suggest remedies. The offender accepted responsibility and began his work to make amends. After months of reflection, study, and service, he reported to the congregation:

*I take full responsibility. I cannot apologize enough. I also cannot thank you enough for allowing me to [do this program]. You showed kindness and fairness when I did not. I will never cause you or anyone harm in this manner ever again. I'll definitely think through my actions and how they will affect others before I act. I'm sorry.*

This kind of transformation can be your gift to your community. By donating to C4RJ, you will advance a process that **heals, holds accountable, and makes right**. Please contribute using the enclosed envelope, or online at [www.c4rj.com](http://www.c4rj.com).



**Make your donation  
online at**

[www.c4rj.com](http://www.c4rj.com)

**We thank you!**

With thanks,

Erin V. Freeborn  
Executive Director

**P.S. As the fiscal year draws to an end, please consider supporting C4RJ before June 30th!**

Sunday

Thank you to all of you.

On Friday morning I called you through 911 because my husband had collapsed.

Everyone who responded, especially the officer on the phone, were so kind, knowledgeable, supportive, and just wonderful.

I imagine that you do this everyday. For me your response was reassuring in every way.

We'll spend this week getting my husband thoroughly checked out.

And again, thank you so much for what you do so well.

Season's Greetings and best wishes for the New Year

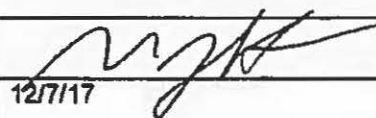
Debbie and Gary Lewis

**DISCLOSURE OF APPEARANCE OF CONFLICT OF INTEREST  
AS REQUIRED BY G. L. c. 268A, § 23(b)(3)**

RECEIVED  
DEC 12 2017

<b>PUBLIC EMPLOYEE INFORMATION</b>	
Name of public employee:	Michael J. Staiti
Title or Position:	Trustee
Agency/Department:	Wayland Municipal Affordable Housing Trust
Agency address:	41 Cochituate Road Wayland, MA 01778
Office Phone:	617-593-2130
Office E-mail:	mikestaiti@keystonedev.net
	<p>In my capacity as a state, county or municipal employee, I am expected to take certain actions in the performance of my official duties. Under the circumstances, a reasonable person could conclude that a person or organization could unduly enjoy my favor or improperly influence me when I perform my official duties, or that I am likely to act or fail to act as a result of kinship, rank, position or undue influence of a party or person.</p> <p>I am filing this disclosure to disclose the facts about this relationship or affiliation and to dispel the appearance of a conflict of interest.</p>
<b>APPEARANCE OF FAVORITISM OR INFLUENCE</b>	
Describe the issue that is coming before you for action or decision.	The Trust is considering using a Worcester based contractor, Taylor Made Construction (TMC), for repair work at 11 Hammond Road, Wayland. TMC is owned by Jeff Taylor who is also an employee of Keystone Development, which I am the owner of. TMC's estimate was less than half of competing bids received by the Trust for same scope of work.
What responsibility do you have for taking action or making a decision?	Brian O'Herlihy and I have been authorized by the Trust to spend up to \$40,000 for the renovation and repair of 11 Hammond Road. I did abstain from vote at 12/6/17 meeting where other Trustees voted unanimously to proceed with TMC for scope of work at property.
Explain your relationship or affiliation to the person or organization.	Owner of Keystone Development of which Jeff Taylor is an employee.
How do your official actions or decision matter to the person or organization?	They don't. I didn't vote on decision to use TMC. Also, TMC is interested in the work regardless of my involvement with the Trust or project. Finally, I have no financial interest in TMC.
Optional: Additional facts – e.g., why there is a low risk of undue favoritism or improper influence.	None, TMC is interested in doing the work outside of any influence from me and they are significantly lower cost than other bids received by the Trust.
If you cannot confirm this statement,	<b>WRITE AN X TO CONFIRM THE STATEMENT BELOW.</b>  X Taking into account the facts that I have disclosed above, I feel that I can perform my



you should recuse yourself.	official duties objectively and fairly.
Employee signature:	
Date:	12/7/17

**Attach additional pages if necessary.**

**Not elected to your public position – file with your appointing authority.**

**Elected state or county employees – file with the State Ethics Commission.**

**Members of the General Court – file with the House or Senate clerk or the State Ethics Commission.**

**Elected municipal employee – file with the City Clerk or Town Clerk.**

**Elected regional school committee member – file with the clerk or secretary of the committee.**

**Form revised July, 2012**



Wayland Housing Authority  
106 Main Street  
Wayland, MA 01778

Brian E. Boggia  
Executive Director

RECEIVED  
DEC 18 2017

COPIES  
COPY

V/TTY: (508) 655-6310 ✓  
FAX: (508) 655-8566  
[www.wayland.ma.us](http://www.wayland.ma.us)

Board of Commissioners  
Mary M. Antes  
Russell Ashlon  
Miriam Andrews  
Kevin Goodwin  
Susan Weinstein

December 13, 2017

Yong Shu Xie and Xiao Yun Huang  
306 Trout Brook Road  
Wayland, MA 01778

Dear Yong Shu Xie and Xiao Yun Huang:

The WHA and DHCD have approved your request for capital improvements to replace rugs in your home with hardwood floors.

Capital improvements must be approved by the WHA and state subsidizing agency prior to construction as per Page 3 of the HSF Deed Rider:

Approved Capital Improvements means the documented commercially reasonable cost of extraordinary capital improvements made to the Property by the Owner; Provided that the Agencies or the Monitoring Agent shall have given written authorization for incurring such cost prior to the cost being incurred and that the original cost of such improvements shall be discounted over the course of their useful life.

Keep in mind that the value of your capital improvements may or may not add value to the resale price of your home. See Page 4 of your HSF deed rider:

Maximum Resale Price means the sum of (i) the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, plus (ii) the Resale fee and any necessary marketing expenses (including broker's fees) as may have been approved by the Monitoring Agent, plus (iii) Approved Capital Improvements, if any (the original cost of which shall have been discounted over time, as calculated by the Monitoring Agent); provided that in no event shall the Maximum Resale Price be greater than the purchase price for which a credit-worthy Eligible Purchase earning no more than eighty percent (80%) of Area Median Income...

Yong Shu Xie and Xiao Yun Huang

December 13, 2017

Page 2

Also, please keep in mind that all capital improvements require a building permit approved by the Wayland Building Commissioner. In this case, the Wayland Building Commissioner has indicated that the replacement of rugs with hardwood floors does not require a building permit.

Please let me know if you have any questions or require further clarification.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Boggia", written over the printed name.

Brian Boggia  
Executive Director

Cc: Wayland Town Administrator ✓





**TOWN OF WAYLAND**  
MASSACHUSETTS  
01778  
**CONSERVATION COMMISSION**

TOWN BUILDING  
41 COCHITUATE ROAD  
TELEPHONE: (508) 358-3669  
FAX: (508) 358-3606

DATE: December 15, 2017  
TO: Finance Committee  
CC: Board of Selectman  
FROM: Linda Hansen, Conservation Administrator  
SUBJECT: Open Capital Projects

Currently, the Conservation Commission has four open Capital Improvement projects. The purpose of this memo is to provide you with the status of each open project. With the help of our town engineer, all these projects are moving forward. Thank you for the opportunity to discuss the Conservation Capital budget on Monday night.

**Dam Repairs (two accounts; original budgets \$100,000 and \$25,000):** This summer I contracted with an engineering firm to prepare the required 5-year dam inspection report (\$5K).

The recommendations of this inspection report will be implemented after the roof on the gatehouse is repaired.

STEP 1: The design of the roof will be completed shortly (\$ 4.5K) and a new roof shall be installed this winter (amount unknown).

STEP 2: The next step is to determine whether the overflow valve (in the gatehouse) is functional to allow for release of water from the impoundment (emergency management).

STEP 3: The spillway on the west side of the earthen dam needs to be redesigned/rebuilt and have a beaver deceiver installed.

These three steps will easily consume the balance of \$ 116,054 designated for dam repairs (this balance does not reflect the \$10K recently spent). The Emergency Management Committee has made this project a high priority.

**Conservation (original budget \$30,000):** Conservation area improvements.

This balance of this budget shall be expended for improvements at Heard Farm Road and parking area (\$ 28 K).

The Town Engineer is addressing the access road to Heard Farm which has large potholes and regularly floods. The plan is to reconstruct road and direct stormwater to a LID treatment system (demonstration project). An arborist will be hired to prune the trees in the vintage apple orchard.

**Shed Upgrades (original budget \$ 25,000):**

STEP 1: A new barn door was installed on the shed this past summer (~ \$5K).

STEP 2: Evaluate the foundation, floor and central support beam. The shed is very old and structurally needs work. The amount of money left in this account after the shed door was replaced will be sufficient to fund the most needed work—an experienced carpenter or engineer should be able to prioritize what needs to be addressed first.

## Porter, David

---

**From:** Balmer, Nan  
**Sent:** Thursday, January 4, 2018 11:17 AM  
**To:** Porter, David  
**Subject:** Fwd: Spring Election Planning

Correspondence

Nan Balmer  
(508) 237-1330

Begin forwarded message:

**From:** "Megan Lucier" <[mmlucier@comcast.net](mailto:mmlucier@comcast.net)>  
**Date:** January 4, 2018 at 11:00:19 AM EST  
**To:** <[landerson@wayland.ma.us](mailto:landerson@wayland.ma.us)>, <[ckarlson@wayland.ma.us](mailto:ckarlson@wayland.ma.us)>, <[mantes@wayland.ma.us](mailto:mantes@wayland.ma.us)>, <[ljurist@wayland.ma.us](mailto:ljurist@wayland.ma.us)>, <[dlevine@wayland.ma.us](mailto:dlevine@wayland.ma.us)>, <[nbalmer@wayland.ma.us](mailto:nbalmer@wayland.ma.us)>  
**Subject:** Spring Election Planning

Dear Wayland Board of Selectmen,

Word on the street is that you are considering breaking out all the budget-related items into separate ballot votes for the March 27. I am writing to encourage you to NOT take this step but to keep *one ballot question* for all five issues this Spring.

One ballot question for multiple budget-related items is consistent with how this circumstance has been treated in the past, most recently in 2009 and 2011. The reason this strategy has been employed is because budget items are simply too complex for a simple yes/no that the election provides. They deserve to be examined, with more pro and con detail, at Town Meeting. The election should simply serve as a means to get these items ratified for the warrant.

Thank you for considering my input.

Megan Lucier  
2 Rice Spring Lane

## Porter, David

---

**From:** Balmer, Nan  
**Sent:** Thursday, January 4, 2018 6:39 PM  
**To:** Porter, David  
**Subject:** Fwd: Resident's Input on Debt Exclusion Ballot Question

Correspondence

Nan Balmer  
(508) 237-1330

Begin forwarded message:

**From:** Cynthia Lavenson <[cynthialavenson@gmail.com](mailto:cynthialavenson@gmail.com)>  
**Date:** January 4, 2018 at 5:07:01 PM EST  
**To:** [landerson@wayland.ma.us](mailto:landerson@wayland.ma.us)  
**Cc:** Nan Balmer <[nbalmer@wayland.ma.us](mailto:nbalmer@wayland.ma.us)>  
**Subject:** Resident's Input on Debt Exclusion Ballot Question

Dear Lea,

Wayland is such a special community! I understand that the annual budget process is progressing and a debt exclusion ballot question is likely in the offing. In the 25-plus years I have lived in Wayland — and through my dozen years of active involvement in school and community life — I have come to value highly the special character of this tight-knit community.

While many factors certainly contribute, in my view one structural element is key: the practice of including all pertinent capital project items within one ballot question. This approach underscores the philosophy that Wayland is a united community and that town officials have carefully thought out all matters across the community's various constituencies. Town Meeting is the appropriate venue for residents to give due consideration to line items. By contrast, I feel it would be extremely divisive to split up various items at the polls. It would be a shame, for example, looking at today's intense snowfall, if residents were given the option to vote specifically for or against the purchase of snowplows. This is done for the good of the entire community and its public safety — let's not encourage snowbirds, who are away for the winter, to think first of their self-interest.

**I respectfully request your support for a single debt exclusion ballot question.**

Thank you for your service to the town and for your consideration of this letter.

Best regards,

Cynthia



**Porter, David**

---

**From:** Balmer, Nan  
**Sent:** Friday, January 05, 2018 6:16 AM  
**To:** Porter, David  
**Subject:** Fwd: Debt Exclusion Question at the Polls and Finding a Gender Neutral Name for Your Committee

Correspondence

Nan Balmer  
(508) 237-1330

Begin forwarded message:

**From:** Lisa Valone <lvalone@comcast.net>  
**Date:** January 4, 2018 at 9:01:30 PM EST  
**To:** [landerson@wayland.ma.us](mailto:landerson@wayland.ma.us), [ckarlson@wayland.ma.us](mailto:ckarlson@wayland.ma.us), [mantes@wayland.ma.us](mailto:mantes@wayland.ma.us),  
[ljurist@wayland.ma.us](mailto:ljurist@wayland.ma.us), [dlevine@wayland.ma.us](mailto:dlevine@wayland.ma.us)  
**Cc:** <[nbalmer@wayland.ma.us](mailto:nbalmer@wayland.ma.us)>  
**Subject:** Debt Exclusion Question at the Polls and Finding a Gender Neutral Name for Your Committee

To the Board of Selectmen:

As you consider the issue of a debt exclusion question on the ballot to finance several different projects, please consider that our Town has a history of bundling the capital expenses into one question on the ballot. Concerns for spending on individual items have been debated and voted under appropriate articles at Town Meeting. This is incredibly important for the unity of the Town. In the past, discussion in Selectmen and Finance Committee meetings to decide bundling verses multiple questions focused on the point that we are one town and one population that values the needs of all groups who live here. As you know, in 2009 there were three items bundled under one ballot question totaling \$1.08 million and in 2011 there were five items bundled under one ballot question totaling \$880,000. Clearly there is a precedent for this approach that has worked well for Wayland.

I strongly urge the Board of Selectmen and the Finance Committee to continue this approach and bundle all the capital items in one ballot question next spring.

And please, let me know what it would take to change the name of your board to "Selectpeople" or some other gender neutral name. "Selectmen" does not reflect the town's population nor the make up of the board. I feel the current name of the board is disrespectful to the many women who are serving now and have served on this board for many decades. Further, the term "Selectmen" is from a bygone, sexist era. We should be beyond this in 2018 and should be recognizing all people who serve on the board and those who aspire to hold public office by making the name of the board gender neutral.

Thank you for all you do for our Town!

**Happy New Year!**

**Regards,**

**Lisa Valone  
205 Rice Rd  
Wayland**

December 12, 2017

RECEIVED

DEC 14 2017

Jeffrey T. Blake  
jblake@k-plaw.com

Clerk, Civil  
Middlesex Superior Court  
200 Trade Center  
Woburn, MA 01801

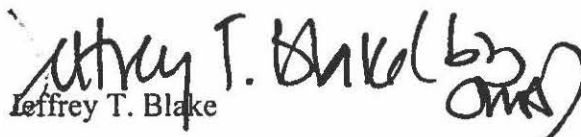
Re: Cochituate Commons, LLC v. Town of Wayland  
Middlesex Superior Court, C.A. No. 1781CV03321

Dear Sir/Madam:

Enclosed for filing in the above-referenced case please find Defendant Town of Wayland's Answer to Plaintiff's Complaint, along with a Certificate of Service.

Thank you for your attention to this matter.

Very truly yours,

  
Jeffrey T. Blake

JTB/JMA/ekh

Enc.

cc: Board of Selectmen  
AiVi Nguyen, Esq.  
Andrew C. Bartholomew, Esq.

598819/WAYL/0085



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT  
C.A. NO. 1781CV03321

COCHITUATE COMMONS, LLC,

Plaintiff

v.

TOWN OF WAYLAND,

Defendant

ANSWER

Defendant, Town of Wayland ("Town"), hereby answers the allegations in the above-captioned Complaint as follows:

**INTRODUCTION**

The introductory paragraph preceding Paragraph 1 of the Complaint does not require a response by the Town. To the extent a response is required, the Town denies that the plaintiff is entitled to additional damages arising out of its taking of the plaintiff's property.

**PARTIES**

1. Admitted.
2. Admitted that the Town is a municipality. Denied that its business office is located at 66 River Road.

**FACTUAL ALLEGATIONS**

3. The allegations in Paragraph 3 of the Complaint referencing the property deed, attached as Exhibit A of the Complaint, speak for themselves, and therefore, no answer is required of the Town.

4. The Town is without knowledge sufficient to either admit or deny the truth of the allegations contained in Paragraph 4 of the Complaint.
5. The allegations in Paragraph 5 of the Complaint referencing the Order of Taking, attached as Exhibit B of the Complaint, speak for themselves, and therefore, no answer is required of the Town.
6. Admitted.
7. Denied.
8. Denied.
9. Denied.
10. The plaintiff is advised that the pro tanto award is available from the Town.

#### COUNT I

##### (Assessment of Damages Under G.L. c. 79, §14)

11. The Town incorporates herein Paragraphs 1-10 of this Answer.
12. Paragraph 12 states a conclusion of law to which no response is required.
13. Denied.
14. Paragraph 14 of the Complaint comprises plaintiff's request for relief, which does not require a response by the Town. The Town, however, denies that the plaintiff is entitled to any of the relief sought.
15. Paragraph 15 of the Complaint comprises plaintiff's request for relief, which does not require a response by the Town. The Town, however, denies that the plaintiff is entitled to any of the relief sought.

#### COUNT II

##### (Unjust Enrichment)

16. The Town incorporates herein Paragraphs 1-15 of this Answer.

17. Admitted.

18. The plaintiff is advised that the pro tanto award is available from the Town.

19. Paragraph 19 states a conclusion of law to which no response is required.

20. Denied.

The paragraph following Paragraph 20 of the Complaint comprises plaintiff's request for relief, which does not require a response by the Town. The Town, however, denies that the plaintiff is entitled to any of the relief sought.

#### FIRST DEFENSE

The plaintiff is not entitled to the damages, interest or costs alleged in the Complaint.

#### SECOND DEFENSE

The plaintiff not entitled to any relief due to its unclean hands.

#### THIRD DEFENSE

The Complaint should be dismissed for failure to state a cause of action upon which relief may be granted.

#### FOURTH DEFENSE

The plaintiff did not possess any interest in the subject property as of the date of taking and, thus, lacks standing to bring the subject action.

#### FIFTH DEFENSE

The plaintiff has failed to state a cause of action upon which relief may be granted by this court.

#### SIXTH DEFENSE

The Town calls upon plaintiff to prove all of its right, title and interest in and to each parcel of land with respect to which he claims to have been damaged as a result of actions of the Town.



SEVENTH DEFENSE

The plaintiff and/or his predecessor in title have been compensated in full for any and all damages sustained as a result of the subject taking by the Town.

EIGHTH DEFENSE

The Complaint must be dismissed due to insufficiency of service of process.

NINTH DEFENSE

As a matter of law, recovery under a theory of unjust enrichment is not available against a municipality.

TENTH DEFENSE

At all times relevant, the Town acted reasonably and in accordance with law.

JURY DEMAND

The Town respectfully requests a trial by jury on all claims so triable.

WHEREFORE, the Town demands that this action be dismissed and that judgment enter in its favor together with costs and attorneys' fees.

DEFENDANT,  
TOWN OF WAYLAND,

By its attorneys,

Jeffrey T. Blake (BBO# 655773)

Jeffrey T. Blake (BBO# 655773)

Janelle M. Austin (BBO# 666835)

KP Law, P.C.

Town Counsel

101 Arch Street, 12th Floor

Boston, MA 02110-1109

(617) 556-0007

[jblake@k-plaw.com](mailto:jblake@k-plaw.com)

[jaustin@k-plaw.com](mailto:jaustin@k-plaw.com)

Date: 12/12/17


598767/WAYL0085

CERTIFICATE OF SERVICE

I, Janelle M. Austin, hereby certify that on the below date, I served a copy of the foregoing Defendant Town of Wayland's Answer to Plaintiff's Complaint, by first class mail, postage prepaid, to the following counsel of record:

AiVi Nguyen, Esq.  
Andrew C. Bartholomew, Esq.  
Bowditch & Dewey, LLP  
311 Main Street  
P.O. Box 15156  
Worcester, MA 01615

Dated: 12/12/17

  
\_\_\_\_\_  
Janelle M. Austin

598767/WAYL/0085

BY FEDERAL EXPRESS

December 14, 2017

Kristin L. Knopf, Esq.  
55 Landham Road  
Sudbury, MA 01776

Re: Town of Wayland – 52-60 Rice Road

Dear Ms. Knopf:

Enclosed please find the following documents:

1. Quitclaim Deed from Thomas D. Greenaway and Sarah M. Greenaway to the Town of Wayland, acting by and through its Conservation Commission, for the “Open Space” at the subdivision located at 52-60 Rice Road in Wayland (the “Subdivision”), which has not been executed by the grantors, but which includes the original Acceptance of the Conservation Commission and the original Approval of the Board of Selectmen; and

2. Letter of acknowledgment for the Open Space executed by the Chair of the Wayland Board of Selectmen.

I am releasing these documents to you, in escrow, contingent upon the following:

1. Recording with the Middlesex South District Registry of Deeds of the Quitclaim Deed from Thomas D. Greenaway and Sarah M. Greenaway to the Town of Wayland, acting by and through its Conservation Commission, for the “Open Space” referenced above;

2. Recording with the Middlesex South District Registry of Deeds of the Declaration of Common Driveway Easement and Maintenance Agreement executed by Kane Built, Inc., as previously approved by me; and

3. Discharge of the two outstanding mortgages noted at Paragraph 10 of your Limited Certification of Title, being those mortgages recorded with the Middlesex South District Registry of Deeds in Book 67289, Page 29 and Book 69857, Page 511.

You are authorized to record Items 1 and 2, above, in connection with the closing on Lots 3, 4 and 5 of the Subdivision to Kane Built, Inc. Please advise of the recording information when available. Please provide copies of the discharges of the mortgages within sixty (60) days of the closing.

RECEIVED

DEC 18 2017

Katharine Lord Klein  
kklein@k-plaw.com



# KP | LAW

Kristin L. Knopf, Esq.

December 14, 2017

Page 2

Please contact me with any questions.

Very truly yours,



Katharine Lord Klein

KLK/jsh

Enc.

cc: Board of Selectmen  
Planning Board  
Conservation Commission

599106/WAYL/0079

**QUITCLAIM DEED**

We, **THOMAS D. GREENAWAY (a/k/a Thomas Greenaway)** and **SARAH M. GREENAWAY (a/k/a Sarah Greenaway)**, a married couple, of 26 Jeffrey Road, Wayland, Massachusetts 01778, for consideration paid of One Dollar (\$1.00), do hereby grant to the **TOWN OF WAYLAND**, a Massachusetts municipal corporation, acting by and through its Conservation Commission, pursuant to G.L. c. 40, §8C, having an address of 41 Cochituate Road, Wayland, Massachusetts 01778 ("Grantee")

*with QUITCLAIM COVENANTS*

A certain parcel of land situated in Wayland, Middlesex County, Massachusetts, and being shown as "Open Space" on a plan entitled, "Proposed Land Plan of #52-60 Rice Road, Wayland, MA," Owners: Tom and Sarah Greenaway, dated July 20, 2017, prepared by Sullivan, Connors and Associates, recorded with the Middlesex South District Registry of Deeds as Plan No. 728 of 2017. Said parcel contains 100,988+/- square feet (2.32 acres) of land, according to said plan to which reference is hereby made for a more particular description.

Said parcel is conveyed together with the right of the Grantee and the public to use the "15' Wide Open Space Access Easement" located upon Lot 4, for pedestrian access shown on said plan for passage to and from Rice Road to the parcel described above, in common with all others entitled thereto, and subject to the rights of the owners of Lots 3, 4 and 5 on said plan to use the Common Driveway Easement also shown on said plan. The owners of Lots 3, 4 and 5 shall maintain, repair and replace the access easement in accordance with the terms and provisions of the Common Driveway Easement Maintenance Agreement, recorded with the Middlesex South District Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_, and with the rules and regulations, directions and guidelines of the Wayland Conservation Commission from Rice Road to the terminus of the Common Driveway Easement, at which point responsibility

PROPERTY ADDRESS: Open Space, Rice Road, Wayland, MA

for the maintenance, repair and replacement of the access easement shall be the responsibility of the Wayland Conservation Commission.

For Grantors' title see deed dated May 12, 2016 and recorded with the Middlesex South District Registry of Deeds in Book 67289, Page 25; deed dated June 18, 2014 and recorded with the Middlesex South District Registry of Deeds in Book 63774, Page 456 and deed dated August 25, 2006 and recorded with the Middlesex South District Registry of Deeds in Book 48050, Page 534.

The Grantors hereby release any and all rights of homestead in said premises and certify under the pains and penalties of perjury that there are no other persons entitled to protection of the Homestead Act.

*\*\*\*signatures on following page\*\*\**



WITNESS our hands and seals this \_\_\_\_\_ day of October, 2017.

\_\_\_\_\_  
Thomas D. Greenaway

\_\_\_\_\_  
Sarah M. Greenaway

**COMMONWEALTH OF MASSACHUSETTS**

\_\_\_\_\_, ss.

On this \_\_\_ day of October, 2017, before me, the undersigned notary public personally appeared the above named Thomas D. Greenaway and Sarah M. Greenaway who proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the persons whose names are signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of their knowledge and belief, and acknowledged to me that they signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My commission expires:

ACCEPTANCE BY CONSERVATION COMMISSION

The Town of Wayland, acting by and through its Conservation Commission pursuant to the authority granted by G.L. c. 40, §8C, hereby accepts the care, custody, management and control of property described in a deed from Thomas D. Greenaway and Sarah M. Greenaway on this 16th day of November, 2017.

TOWN OF WAYLAND,  
By its Conservation Commission

Sherre Greenbaum  
Sherre Greenbaum, Chair

Tom Klem  
Tom Klem

Joanne B. Barnett  
Joanne B. Barnett

Sean P. Fair  
Barbara Howell

Thomas Davidson  
Thomas Davidson

John Sullivan  
John Sullivan

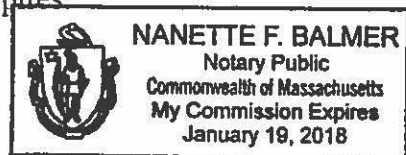
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 16<sup>th</sup> day of November, 2017, before me, the undersigned Notary Public, personally appeared Sherre Greenbaum, Tom Klem, Joanne Barnett, member of the Wayland Conservation Commission, who proved to me through satisfactory evidence of identification, which was DRIVERS LICENSES, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as a member of the Conservation Commission of the Town of Wayland.

\* AND  
Barbara Howell  
Thomas Davidson  
John Sullivan

Nanette F. Balmer  
Notary Public  
My Commission Expires:



APPROVAL BY BOARD OF SELECTMEN

On this 7th day of November, 2017, the Town of Wayland, acting by and through its Board of Selectmen, hereby approves the acceptance by the Wayland Conservation Commission of a deed from Thomas Greenaway and Sarah Greenaway, said property to be under the care, custody, management and control of the Wayland Conservation Commission, under the provisions of G.L. c. 40, §8C.

TOWN OF WAYLAND,  
By its Board of Selectmen

Lea T. Anderson  
Lea Anderson, Chair

\_\_\_\_\_  
Cherry C. Karlson, Vice Chair

Mary M. Antes  
Mary M. Antes

Louis M. Jurist  
Louis M. Jurist

Douglas A. Levine  
Douglas A. Levine

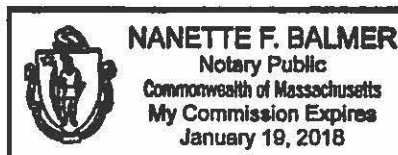
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 7th day of November, 2017, before me, the undersigned Notary Public, personally appeared Lea Anderson, Mary Antes, Louis Jurist, Douglas Levine, member of the Wayland Board of Selectmen, as aforesaid, who proved to me through satisfactory evidence of identification, which was personally known by me, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the Town of Wayland.

Nanette F. Balmer  
Notary Public  
My Commission Expires:

595352v2/WAYL/0129





# TOWN OF WAYLAND

41 COCHITUATE ROAD

WAYLAND, MASSACHUSETTS 01778

NAN BALMER  
TOWN ADMINISTRATOR  
TEL. (508) 358-7755

[www.wayland.ma.us](http://www.wayland.ma.us)

## BOARD OF SELECTMEN

LEA T. ANDERSON  
MARY M. ANTES  
LOUIS M. JURIST  
CHERRY C. KARLSON  
DOUGLAS A. LEVINE

November 7, 2017

Mr. and Mrs. Thomas D. Greenaway  
26 Jeffrey Road  
Wayland, MA 01778

Re: Open Space at 52-60 Rice Road (Wayland, Massachusetts)

Dear Mr. and Mrs. Greenaway:

The Wayland Board of Selectmen acknowledges your conveyance to the Town of Wayland, acting by and through its Conservation Commission, of a parcel of "Open Space," containing 2.32 acres, more or less, shown on a plan entitled "Proposed Land Plan of #52-60 Rice Road in Wayland, MA," dated July 20, 2017, recorded with the Middlesex South District Registry of Deeds as Plan 728 of 2017. Aside from the nominal consideration noted in the deed for the Open Space parcel, the Town did not receive any goods or services for said parcel.

Very truly yours,

---

Lea Anderson, Chair  
Wayland Board of Selectmen



COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT OF THE COMMONWEALTH  
SUPERIOR COURT DEPARTMENT

MIDDLESEX, ss.

WOBURN DIVISION  
CIVIL ACTION # 1781CV03623

\_\_\_\_\_  
DENNIS SULLIVAN,  
(Patricia Sullivan as Power of Attorney)  
Plaintiff

v.

KENNETH PHILLIPS, MANDY PHILLIPS/  
Defendants,

and

TOWN OF WAYLAND and,  
ALCOHOLIC BEVERAGES CONTROL  
COMMISSION  
Necessary Parties.  
\_\_\_\_\_

VERIFIED COMPLAINT

RECEIVED  
TOWN OF WAYLAND  
TOWN CLERK  
2017 DEC 14 AM 11:18

VERIFIED COMPLAINT FOR BREACH OF CONTRACT, INJUNCTIVE RELIEF,  
INTERPLEADER, DECLARATORY JUDGMENT AND DAMAGES

INTRODUCTION

1. Plaintiff, Dennis Sullivan, by and through his valid Power of Attorney, Patricia Sullivan ("Sullivan" or "Plaintiff"), brings this action for damages for the breach of a Settlement Agreement previously entered into between Plaintiff and Defendants, Kenneth Phillips and Mandy Phillips, (the "Phillips") as well as to enjoin the Defendants from continuing to operate the business commonly known as the Dudley Chateau (hereinafter "the Business") through the Defendants' continued use of the Liquor License renewal and the Common Victualler License

renewal, which was issued on December 5, 2016, by the Town of Wayland, MA ("Wayland"), and/or the Massachusetts Alcoholic Beverages Control Commission ("ABCC") for The Dudley Chateau of Cochituate, Inc., ("Dudley, Inc.") in the name of Dennis P. Sullivan, Manager, relative to the Business located at 20 Crest Road, Wayland MA. Mr. Sullivan has resided in Assisted Living at the long-term care facility WINGATE AT SUDBURY, 136 Boston Post Road, Sudbury, MA, for the past ten (10) years, and has had absolutely no involvement whatsoever with the Business, since the date of his sale of the Business to the Phillips in 2012. Plaintiff also seeks to interplead all parties (namely the Town of Wayland and the ABCC) potentially interested in the Liquor License and the Common Victualler License for the Business, so that the Court can declare the parties' rights therein.

#### PARTIES

2. Dennis Sullivan, is a natural person and resident of the Commonwealth of Massachusetts, with a principal place of residence at the long-term care facility WINGATE AT SUDBURY, 136 Boston Post Road, Sudbury, MA 01776, where he has resided since May of 2007.

3. Patricia Sullivan, is the wife of Dennis Sullivan and his valid Power of Attorney. She is a natural person and resident of the Commonwealth of Massachusetts, with a principal place of residence at 23 Morse Street, Natick, MA 01760.

4. Upon information and belief, Defendant, Kenneth Phillips ("Ken"), is a natural person and resident of the Commonwealth of Massachusetts, with a principal place of residence at 17 Cottage Street, Natick, MA. Additionally, Ken is a licensed attorney in Massachusetts with a principal business address at 12 Walnut Street, Natick, MA 01760.

5. Upon information and belief, Defendant, Mandy Phillips ("Mandy"), is a natural person and resident of the Commonwealth of Massachusetts, with a principal place of residence at 17 Cottage Street, Natick, MA. Additionally, Mandy has a principal business address at 20 Crest Road, Wayland MA. (Mandy Phillips and Kenneth Phillips may be collectively referred to herein as "the Phillips").

6. Necessary party Town of Wayland c/o of its Town Clerk (Beth R. Klein) is located in Massachusetts at 41 Cochituate Road, Wayland, MA 01778, and in conjunction with the ABCC

has been responsible for the issuance of the multiple Liquor License renewals and Common Victualler License renewals, (the most recent of which was issued on December 5, 2016), for Dudley, Inc., in the name of Dennis P. Sullivan, Manager. The Town of Wayland is joined as a party herein, solely in its capacity as the entity responsible for issuing the Common Victualler License renewals, so that it will be subject to, any Court orders entered herein enjoining the Phillips from continuing to request the issuance of Common Victualler License renewals, in the name of Dennis P. Sullivan, Manager, for Dudley, Inc., relative to the business located at 20 Crest Road, Wayland MA.

7. Necessary party Alcoholic Beverages Control Commission c/o of its Commission Chairman (Jean M. Lorizio, Esq.) is located in Massachusetts at 239 Causeway Street, 1<sup>st</sup> Floor, Boston, MA 02114, and in conjunction with Wayland has been responsible for the issuance of the multiple Liquor License renewals and Common Victualler License renewals, (the most recent of which was issued on December 5, 2016), for Dudley, Inc., in the name of Dennis P. Sullivan, Manager. The ABCC is joined as a party herein, solely in its capacity as the entity responsible for issuing the Liquor License renewals, so that it will be subject to, any Court orders entered herein enjoining the Phillips from continuing to request the issuance of Liquor License renewals, in the name of Dennis P. Sullivan, Manager, for Dudley, Inc., relative to the business located at 20 Crest Road, Wayland MA.

#### JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to, inter alia, G.L.c. 212, §4, G.L.c. 214, §1, and G.L.c. 231A, §1 because Sullivan seeks injunctive relief, as well as damages.

9. This Court has personal jurisdiction over the Phillips pursuant to G.L.c. 223, §1 because, the Phillips are residents of the Commonwealth of Massachusetts, with a principal place of residence at 17 Cottage Street, Natick, MA.

10. Middlesex County is the proper venue for this action, pursuant to G.L.c. 223, §1, because the Phillips' principal place of residence is located in Natick, Middlesex County, Massachusetts.

## FACTS COMMON TO ALL COUNTS SET FORTH IN COUNTERCLAIM

11. Patricia Sullivan is the valid Power of Attorney for her husband Dennis Sullivan (See, Power of Attorney, attached hereto as Exhibit "A").

12. On March 15, 2012, the Phillips executed a Promissory Note (See, Exhibit "B") in favor of Dennis Sullivan in the original principal amount of \$100,000.00 (the "Note"), relative to the Phillips purchase of both the Real Property located at 20 Crest Road, Wayland MA, as well as the business located at 20 Crest Road, Wayland MA, known as The Dudley Chateau of Cochituate, Inc. The Phillips failed to honor the terms of the Note (which led to Sullivan sending the Phillips a Chapter 93A Demand Letter in March of 2017 (the "93A Demand") (attached hereto as Exhibit "C")), by, among other things, defaulting on the Note and failing to honor the payment terms of the Note.

13. Subsequent to Sullivan's transmission of the 93A Demand, the Phillips and Sullivan executed a Settlement Agreement (attached hereto as Exhibit "D"), which required that the Phillips make certain payments and take certain other curative steps within a specified timeframe.

14. The Phillips have wholly failed to take the necessary curative steps, which are required by the terms of the Settlement Agreement, despite Sullivan's repeated requests that they do so.

15. As part of Sullivan's 2016/2017 investigation into the Phillips' default on the terms of the Note, he contacted the Town of Wayland, Massachusetts, and learned that on or about December 5, 2016, the Town of Wayland, MA, issued a Common Victualler License (Exhibit "E") to Dudley, Inc., Dennis P. Sullivan, Manager, on the premises at 20 Crest Road, Wayland MA 01778. Said license permits, among other things, the sale of all kinds of alcoholic beverages to be drunk on the premises.

16. Upon information and belief, for the past several years, one or both of the Phillips, on an annual basis, have been submitting documentation to the ABCC and/or the Town of Wayland, in order to procure annual renewals of the Liquor License and the Common Victualler License for Dudley, Inc., in the Plaintiff's name, without any permission or authorization to do so (Exhibit "F").

17. Understandably, serious concerns arose about how and why the Town of Wayland came



to issue said license in Sullivan's name (as Manager of The Dudley Chateau of Cochituate, Inc.) in light of the fact that the Phillips purchased this business from Sullivan in 2012, and Mr. Sullivan has resided in Assisted Living for the past ten (10) years, and has had absolutely no involvement whatsoever with The Dudley Chateau of Cochituate, Inc., since the date of his sale of the same to the Phillips in 2012.

18. Sullivan confronted the Phillips regarding this matter in his 93A Demand. He reminded the Phillips that they have been the exclusive owners and operators of the Dudley Chateau since 2012, when they purchased the land and business from Sullivan.

19. Through the 93A Demand, Sullivan further reminded the Phillips that, per the terms of the business Purchase & Sale Agreement, the Phillips were to have transferred all necessary licenses from Sullivan's name to the Phillips' name(s) within thirty (30) days of the Phillips' acquisition of the business (which would have been sometime around July/August of 2012).

20. It would appear that, to preserve their ability to maintain and sell liquor at the Dudley Chateau, from 2012 through 2016, the Phillips somehow convinced the Town of Wayland that Mr. Sullivan was actively engaged as a Manager of the premises, which he clearly is not since he has resided in Assisted Living at the long-term care facility WINGATE AT SUDBURY, 136 Boston Post Road, Sudbury, MA, for the past ten (10) years, and has had absolutely no involvement whatsoever with the Business, since the date of his sale of the Business to the Phillips in 2012.

21. As part of the Settlement Agreement entered into between Sullivan and the Phillips, the Phillips agreed to take certain curative steps, within a specified timeframe, in order to cause Sullivan's name to be removed from the Liquor License and the Common Victualler License for The Dudley Chateau of Cochituate, Inc.

22. The Phillips were to have completed these curative steps on or before September 15, 2017, which the Phillips have failed to do.

23. By and through counsel, Sullivan has attempted to communicate with the Phillips to ascertain why they have breached the Settlement Agreement and failed to take the required curative steps, but the Phillips have not communicated in return with Sullivan's counsel.

24. In light of the Phillips' breach of the Settlement Agreement, as well as Sullivan's serious concerns regarding his exposure to liability issues, Sullivan felt he had no choice but to file this action and seek court intervention.

COUNT I

(BREACH OF CONTRACT)

25. Plaintiff, Sullivan repeats the allegations set forth in paragraphs 1 through 24, above.

26. Sullivan and the Phillips entered into a Settlement Agreement, the terms of which the Phillips have breached.

27. The Phillips have breached the terms of the Settlement Agreement by failing to take certain curative steps in order to cause Sullivan's name to be removed from the Liquor License and the Common Victualler License for The Dudley Chateau of Cochituate, Inc.

28. The Phillips were to have completed these curative steps on or before September 15, 2017, which the Phillips have failed to do.

WHEREFORE, the plaintiff demands judgment against the defendant for specific performance, in addition to costs and attorneys' fees as specifically allowed for in the Settlement Agreement.

COUNT II

(INJUNCTIVE RELIEF)

29. Plaintiff, Sullivan, repeats the allegations set forth in paragraphs 1 through 28, above.

30. The Phillips have failed to honor the terms of the Settlement Agreement and in so doing have failed to take certain curative steps within the timeframe required of them.

31. Sullivan has not been the Manager of The Dudley Chateau since 2012 when he sold the business to the Phillips.

32. The Phillips have no legal justification for causing the ABCC and the Town of Wayland to continue to issue annual Liquor License renewals and Common Victualler License renewals, in the name of Dennis P. Sullivan, Manager, for The Dudley Chateau of Cochituate, Inc.

33. The Phillips' intentional actions constitute fraud and misrepresentation.

34. The Phillips' intentional actions are contrary to law. Sullivan will suffer substantial and irreparable injury if the Phillips continue to mislead the ABCC and the Town of Wayland regarding Sullivan's involvement as Manager of The Dudley Chateau.

35. Sullivan is entitled to preliminary and permanent injunctive relief to enjoin the Phillips from causing the ABCC and the Town of Wayland to continue to issue annual Liquor License renewals and Common Victualler License renewals, in the name of Dennis P. Sullivan, Manager, for The Dudley Chateau of Cochituate, Inc.

WHEREFORE, the plaintiff requests the Court enjoin and restrain the Phillips from causing the ABCC and the Town of Wayland to continue to issue annual Liquor License renewals and Common Victualler License renewals, in the name of Dennis P. Sullivan, Manager, for The Dudley Chateau of Cochituate, Inc., as well as order the Phillips to pay costs and attorneys' fees as specifically allowed for in the Settlement Agreement.

### COUNT III

#### (INTERPLEADER)

36. Plaintiff, Sullivan, repeats the allegations set forth in paragraphs 1 through 35, above.

37. Pursuant to Mass. R. Civ. P. 22, this action joins as parties herein, all persons having a claim in, or involvement with continued issuance by the ABCC and the Town of Wayland, of annual Liquor License renewals and Common Victualler License renewals, in the name of Dennis P. Sullivan, Manager, for The Dudley Chateau of Cochituate, Inc.

COUNT IV

(DECLARATORY RELIEF)

38. Plaintiff, Sullivan, repeats the allegations set forth in paragraphs 1 through 37, above.

39. There is an actual controversy between the parties concerning the Phillips' continuing to cause (since 2012) Liquor License renewals and Common Victualler License renewals to be issued in the name of Dennis P. Sullivan, Manager, for The Dudley Chateau of Cochituate, Inc., for the Phillips' use and benefit.

40. All persons having an interest in the annual Liquor License renewals and Common Victualler License renewals are joined as parties to this action.

41. This Court should determine and declare that the Phillips have no legal right to cause Liquor License renewals and Common Victualler License renewals to be issued in the name of Dennis P. Sullivan, Manager, for The Dudley Chateau of Cochituate, Inc., for the Phillips' use and benefit.

42. This Court should determine and declare that both the ABCC and the Town of Wayland should cease to issue Liquor License renewals and Common Victualler License renewals in the name of Dennis P. Sullivan, Manager, for The Dudley Chateau of Cochituate, Inc., since Sullivan has not been a Manager of the Dudley Chateau since 2012 and Mr. Sullivan has resided in Assisted Living for nearly the past ten (10) years, and has had absolutely no involvement whatsoever with the The Dudley Chateau of Cochituate, Inc., since the date of his sale of the same to the Phillips in 2012.



WHEREFORE, the Plaintiff, Dennis Sullivan, demands that the Court enter the following relief in his favor:

1. That the Court issue a Short Order of Notice on the Plaintiff's separately filed Motion for Preliminary Injunction;

2. After notice and the opportunity to be heard, that the Court grant Plaintiff's separately filed Motion for Preliminary Injunction, enjoining and restraining both the Phillips and the Town of Wayland and the ABCC from continuing to issue Liquor License renewals and Common Victualler License renewals in the name of Dennis P. Sullivan, Manager, for The Dudley Chateau of Cochituate, Inc.;

3. Adjudging and declaring that the Phillips and the Town of Wayland and the ABCC take all necessary steps to immediately remove Dennis P. Sullivan's name from the Liquor License and the Common Victualler License for The Dudley Chateau of Cochituate, Inc., issued in the name of Dennis P. Sullivan, Manager, relative to the business located at 20 Crest Road, Wayland MA.

4. After a hearing on the merits, that the Court:

- (a) Award the Plaintiff his reasonable attorneys' fees, costs, and expenses (as provided for in the Settlement Agreement entered into between the Parties) incurred by Plaintiff in bringing this action for the Phillips' breach of the Settlement Agreement, plus interest;
- (b) Award to the Plaintiff punitive damages (in an amount to be determined by this Court) to punish the Phillips' egregious behavior, fraud, misrepresentation and to operate as a deterrent so that the Phillips do not engage in this type of behavior anymore; and
- (c) Grant to Plaintiff such other and further relief as it deems just and proper.

**PLAINTIFF REQUESTS A TRIAL BY JURY ON ALL CLAIMS SO TRIABLE**



# EXHIBIT A

I hereby certify and ATTEST that the foregoing is a True and Accurate Copy of the Original.

Filed at

Attested

Attorney At Law

## DURABLE POWER OF ATTORNEY

I, Dennis P. Sullivan of Natick, Middlesex County, Massachusetts, hereby appoint, Patricia F. Sullivan of Natick, Middlesex Massachusetts to serve as my agent and attorney-in-fact (hereinafter referred to as my attorney), for me and in my name and behalf to control and manage my property and affairs in all respects including full power and authority:

### 1. GENERAL GRANT OF POWER.

To exercise or perform any act, power, duty, right or obligation whatsoever that I now have or may hereafter acquire, in relation to any person, matter, transaction, or property, real or personal, tangible or intangible, now owned or hereafter acquired by me, including, without limitation, the following specifically enumerated powers. I grant to my attorney full power and authority to do everything necessary in exercising any of the powers herein granted as fully as I might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that my attorney shall lawfully do or cause to be done by virtue of this power of attorney and the powers herein granted.

- (a) Powers of Collection and Payment. To pay my current bills and just debts; to collect, receive, request, demand, sue for, recover, and hold all such sums of money, debts, dues, commercial paper, checks, drafts, accounts, deposits, legacies, bequests, devises, notes, interests, stock certificates, bonds, dividends, certificates of deposit, annuities, pension, profit sharing, retirement, social security, insurance and other contractual benefits and proceeds, all documents of title, all property and property rights and demands whatsoever, liquidated or unliquidated, now or hereafter owned by, or due, owing, payable or belonging to me, or in which I have or hereafter acquire an interest; to have, use, and take all lawful means for the collection and recovery thereof, and to adjust, sell, compromise, and agree for the same, and to execute and deliver for me, on my behalf, and in my name, all endorsements, releases, receipts, or other sufficient discharges for the same;
- (b) Power to Acquire and Sell. To acquire, purchase, grant options to sell, mortgages (including a reverse mortgage), pledge, lease, transfer, assign, deliver, convey or otherwise dispose of real and personal property, tangible or intangible, or interests therein, on such terms and conditions as my attorney shall deem proper, and in connection therewith to sign, seal, execute and deliver deeds, bills of sale, stock powers, and any other documents necessary or convenient to accomplish such action; and no purchaser, transferee or assignee shall be bound to see to the application of the proceeds;



- (c) **Management Powers.** To invest and reinvest, maintain, repair, improve, manage, insure, rent, lease, encumber, and in any manner to deal with any real or personal property, tangible or intangible, or any interests therein, that I now own or may hereafter acquire; to enter any premises leased by me and to care for any such premises and its contents, all upon such terms and conditions as my attorney shall deem proper;
- (d) **Banking Powers.** To make, receive, sign and endorse checks and drafts, deposit and withdraw funds, acquire and redeem certificates of deposit, in banks, savings and loan associations and other institutions, execute or release such deeds of trust or other security agreements as may be necessary or proper in the exercise of the rights and powers herein granted; to open and close checking and savings accounts; to certify my taxpayer identification number;
- (e) **Voting Powers.** To exercise either in person or by proxy, any voting rights I have, with respect to any condominium, condominium association, condominium trust or real estate cooperative;
- (f) **Business Interests.** To conduct or participate in any lawful business of whatever nature for me and in my name; to execute partnership agreements and amendments thereto; incorporate, reorganize, merge, consolidate, recapitalize, sell, liquidate, or dissolve any business; elect or employ officers, directors and agents; carry out the provisions of any agreement for the sale of any business interest or the stock therein; and exercise voting rights with respect to stock, either in person or by proxy, and exercise stock options;
- (g) **Investment Powers.** With respect to any investment accounts, whether presently opened or hereafter opened, to make purchases and sales (including short sales); to subscribe for and trade in stocks, bonds, options, or other securities, or limited partnership interests or investments and trust units, whether or not in negotiable form, issued or unissued, foreign exchange, commodities, and contracts relating to same (including commodity futures), on margin or otherwise, for my account and risk; to deliver or surrender securities on my account, or to instruct others to deliver or surrender securities to my attorney on my account; to order payment of moneys from my accounts and to receive and direct payments from my accounts; to sell, assign, endorse and transfer any stocks, bonds, options or other securities of any nature, at any time standing in my name and to execute any documents necessary to effectuate the foregoing; to receive any and all notices, calls for margin, or other demands with reference to my accounts; and to make any and all agreements with reference to such accounts on my behalf;

- (h) **Tax Powers.** To prepare, sign and file joint, separate or single income tax returns or declarations of estimated tax for any year or years; to apply for and receive any refund due me, to receive any communications with respect to any tax, and to appear for me and represent me before any federal, state or municipal or other agency in connection with any tax matter; to prepare, sign and file gift tax returns with respect to gifts made by me or by my attorney hereunder for any year or years; to consent to any gift and to utilize any gift-splitting provisions or other tax election; and to execute any Power of Attorney designation on forms required by the Internal Revenue Service or any state department of revenue or taxation for three tax years prior to the date of this instrument and for all tax years thereafter;
- (i) **Safe Deposit Boxes.** To have access at any time or times to (and to enter by force if necessary) any safe deposit box rented by me, wheresoever located, to remove all or any part of the contents thereof, and to surrender or relinquish said safe deposit box; and any institution in which any such safe deposit box may be located shall not incur any liability to me or my estate as a result of permitting my attorney to exercise this power;
- (j) **Gift Making Powers.** To make gifts from my property to one or more charitable organizations, the choice of such organizations and the amounts of such gifts to be determined in the sole discretion of my attorney, taking into account the desirability or income-tax deductions for the current year and my prior charitable-giving practices; to make gifts of present interests from my property to any of my children and grandchildren or to any trust for the exclusive benefit of any one or more of them, not to exceed in any case the maximum amount which I might give to the donee without making a taxable gift for federal gift tax purposes, and it shall not be necessary that such donees receive equal amounts; to give any item or items of my property to any person named in any current, valid will of mine, provided that the aggregate gifts to a donee in any year shall not exceed the applicable federal gift tax exclusion, except for the transfers of property to any trust according to paragraph (k), which may exceed such annual exclusion amount for three tax years prior to the date of this instrument and for all tax years hereafter;
- (k) **Powers Under Inter Vivos Trust.** To transfer, convey and deliver any and all of my property, real and personal, to the trustees of any revocable or irrevocable trust created by me as donor, and to do all things necessary or convenient to accomplish the same, including without limitation the power to sign, seal, execute and deliver deeds, bills of sale, and stock powers; to create and fund any trust, revocable or irrevocable, for the benefit of myself, my spouse and issue that I may have power to create; to

amend or revoke any such trust to the same extent that I am empowered to do so according to the terms of such trust;

- (l) **Estate Planning Powers.** To take such action or to apply funds in a manner and for a purpose that is in keeping with my estate planning wishes, without petition to or leave of court, to conserve my property, benefit my descendants and other relatives, minimize current or prospective federal and state taxes, and maximize entitlement to or availability of federal and state medical, welfare, housing, and other public programs for myself or my descendants, including without limitation to make gifts to my spouse, children, relatives, friends or charities as would likely be the recipients of such gifts from me, to make revocable or irrevocable transfers of my property into trusts (whether established by me, my attorney or any other person) for the benefit of myself or others. To the extent the powers conferred under this paragraph are inconsistent with the limits on gift-making powers conferred in paragraph (j) above, the provisions of this paragraph (l) shall take precedence; and it shall not be deemed to be self-dealing on the part of my spouse named as my attorney herein to make gifts, transfers or dispositions to or for himself or our children, because my spouse and children are the objects of my bounty in harmony with my estate plans;
- (m) **Power to Make Statutory Elections and Disclaimers.** To make on my behalf any and all statutory elections and to disclaim any interest in property passing to me by gift, bequest, devise or other transfer if my attorney in the exercise of his or her sole discretion determines that such disclaimer is likely to increase the after-tax amount ultimately passing to my family after my decease without materially affecting my well-being;
- (n) **Power to Act in Probate Proceedings.** To represent me and any interest I may have as an individual in connection with any estates or trusts, including the power to assent to accounts or other proceedings;
- (o) **Retirement Plan Powers.** To deal with all retirement plans of which I am a member including, but not limited to, individual retirement accounts, Keogh plans, pension and profit-sharing plans, settlement options and distributions, rollovers and voluntary contributions; to change the beneficiary of such plans and to consent to any election to waive a qualified joint and survivor annuity form of benefit in any of my spouse's retirement plans;
- (p) **Insurance Powers.** To exercise all rights I may have under policies of life insurance, whether on my life or that of another, including powers to borrow on the policy, name a new or additional beneficiary, assign the policy or name a new owner of the policy, elect settlement options,

accumulate dividends or have dividends paid out, apply for waivers of premiums or disability income, and surrender the policy for cash value;

- (q) **Motor Vehicles.** To apply for a Certificate of Title upon, and endorse and transfer title thereto, any automobile or other motor vehicle and to represent in such transfer assignment that the title to said motor vehicle is free and clear of all liens and encumbrances except those specifically set forth in such transfer assignment;
- (r) **Governmental Entitlement Powers.** To deal with any and all state or federal agencies from whom I receive or am entitled to receive governmental benefits of any description or amount in order to: (i) prepare and file all documents required by such agencies; (ii) apply for any benefits to which I may be entitled; (iii) modify the amounts or terms of such entitlements; (iv) assert my rights against any curtailment or termination of benefits; (v) appeal or compromise any contested claim; (vi) effect a termination thereof.
- (s) **Power to Designate a Substitute.** To appoint and substitute for my attorney any agents or attorney for any or all of the purposes herein enumerated, and their authority at pleasure to revoke;
- (t) **Powers to Provide for My Care.** To make such use of my personal and real property as is necessary to provide for my maintenance, transportation, and necessary medical, dental and surgical care, hospitalization and custodial care;
- (u) In addition to the foregoing, my attorney hereunder may act as my alter ego with respect to any and all possible matters and affairs not otherwise enumerated herein and which I as principal can do through an agent.

2. **HEALTH CARE DECISIONS and FUNERAL PLANS.** To authorize my admission to a medical, nursing, residential or similar facility and to enter into agreements for my care and, if I have not separately designated an attorney to make such decisions on my behalf pursuant to a Health Care Proxy duly executed by me (which document shall supersede the following provisions of this Paragraph as long as such Proxy is in full force and effect), then I grant my attorney named herein the power to authorize all medical, therapeutic and surgical procedures, including the administration of drugs; provided, however, that if the situation should arise in which there is no reasonable expectation of my recovery from extreme physical or mental disability, I direct my said attorney to make whatever decision and take whatever steps are necessary to carry out my express wish that I be allowed to die and not be kept alive by medications, artificial means or heroic measures, subject, however, to the administration of medication or the performance of medical procedures that alleviate suffering and constitute comfort care even though that may shorten my remaining life; to enter contracts for my funeral, burial or cremation and to pay in advance for such services; to establish a bank account designated as funeral account on my behalf.

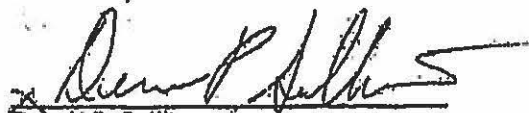


3. **COURT APPOINTED FIDUCIARIES.** If it is deemed necessary to seek appointment by a probate court of a guardian of my person or a conservator of my estate, I hereby nominate Patricia F. Sullivan of 21 Bellevue Road, Natick, Middlesex County Massachusetts, for appointment by such court to serve as such fiduciary without bond on her surety.
4. **COMPENSATION FOR MY ATTORNEY.** My attorney or attorneys named herein, and his, her or their successor, shall be entitled to reasonable compensation for any expenses that are incurred and for the time, effort and services rendered as my attorney.
5. **THIRD PARTY RELIANCE.** Third parties may rely upon the representations of my attorney as to all matters pertaining to any power granted to my attorney, and no person who may act in reliance upon the representation of my attorney or the authority granted to my attorney shall incur any liability to me or my estate as a result of permitting my attorney to exercise any power. Failure to honor this appointment and to recognize the authority of my attorney hereunder shall be actionable.
6. **INTERPRETATION AND GOVERNING LAW.** This instrument is executed and delivered in the Commonwealth of Massachusetts, and the laws of the Commonwealth of Massachusetts shall govern all questions as to the validity of this power and the construction of its provisions.
7. **DISABILITY OR INCAPACITY OF PRINCIPAL.** This Durable Power of Attorney shall not be affected by my subsequent disability or incapacity, and shall be binding not only upon me but also upon my heirs, executors and administrators up to the time of the receipt by my said attorney of a written revocation signed by me or of reliable intelligence of my death. This Durable Power of Attorney shall remain in full force and effect until such time as I execute a written revocation thereof.
8. **REVOCAION OF PRIOR INSTRUMENTS.** If I have executed any Durable Powers of Attorney prior to the date of this instrument, I hereby revoke any such earlier documents and the powers conferred therein.
9. **EMPLOYMENT OF EXPERTS.** To employ and compensate agents, accountants, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, licensed real estate brokers, licensed salesmen and other assistants and advisors deemed by my agent needful for the proper administration of my assets, and to do so without liability for any neglect, omission, misconduct or default of any such agent or professional representative provided he or she was selected and supervised with reasonable care. I authorize my agent to consult with my attorneys, physicians, accountants, financial advisors and/or other professionals with respect to any issue regarding the management of my affairs including but not limited to my physical or mental capacity to manage my affairs. I request my advisors cooperate with my agent and to the extent necessary to effectuate this purpose, I hereby waive in favor of my agent any and all privileges such as the attorney-client privilege, the patient-physician privilege, and/or other similar protections of a confidential relationship.

My attorney appointed hereunder may release authority that applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (HIPPA), 42 U.S.C. 1320d, as now in effect, and as such law may from time to time hereafter be amended. I intend that my attorney shall be treated as I would be, with respect to my rights regarding the use and disclosure of my individually identifiable health information or other medical records.

10: **ATTORNEY-IN-FACT DISCLOSURE.** Any person appointed hereunder as attorney-in-fact may request of any other duly appointed attorney-in-fact information and accountings of his or her acts or actions as such fiduciary, such information to be provided in writing or orally, as the parties may agree. Provided, however, that my spouse acting as my attorney-in-fact hereunder shall not be required to comply with any such disclosure request; and that any action undertaken by my spouse as attorney-in-fact hereunder shall be conclusively presumed to be appropriate and performed with my full consent and approval.

IN WITNESS WHEREOF, I have executed this Durable Power of Attorney this 15<sup>th</sup> day of September 2005

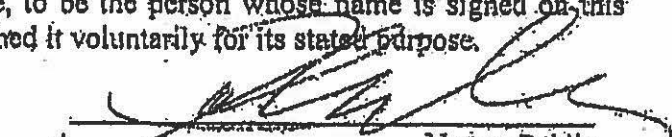
  
Dennis P. Sullivan

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Date: 9/16/2005

On this 15<sup>th</sup> day of September 2005 before me, the undersigned Notary Public, personally appeared Dennis P. Sullivan proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on this document and acknowledged to me that he signed it voluntarily for its stated purpose.

  
Notary Public  
John D. McHugh  
NOTARY PUBLIC  
Middlesex County, Massachusetts



# EXHIBIT B

# CLIENT'S COPY

## PROMISSORY NOTE

U.S. - \$100,000.00


Natick, Massachusetts

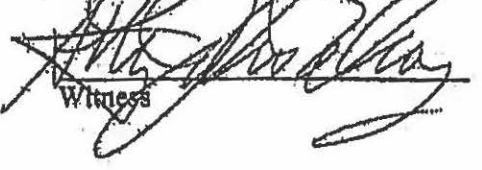
March 15, 2012


1. In return for a loan received, *Kenneth Phillips & Mandy L. Phillips* both ("Borrowers") of 20 Crest Rd. Cochranton promises to pay \$100,000 ("the principal") to *Dennis Sullivan* or order (the "Lender") of 23 Morse Street, Natick, MA. The Lender, or anyone who takes this *Promissory Note* by transfer, is known as "the Note Holder".
2. Borrowers will pay the principal only, without any interest, by making payments of \$1,666.66 on the first of each month beginning June 1, 2012, and on each and every month thereafter, for a total of sixty (60) monthly payments.
3. If the Note Holder has not received the full monthly amount by the end of seven (7) calendar days after the date due, Borrowers will pay to the Note Holder 10% of the monthly overdue principal payment.
4. If the Borrowers are in default, and remain in default for seven (7) days with respect to monthly payment, the Note Holder may thereafter, by delivering notice to the Borrowers, require payment of the full amount of principal which has not been paid and any of the interest owed on that amount. If the Note Holder gives Borrowers such notice demanding immediate payment in full, Borrowers shall then have fifteen (15) days in which to make payment.
5. If the Note Holder requires immediate payment in full as described above, the Note Holder shall have the right to be paid for all of its costs and expenses in enforcing this Note, including attorney's fees and costs.
6. Any Notice that must be given to Borrowers under this *Promissory Note* shall be given by delivering or mailing, first class mail, to Borrowers at the addresses specified above, or at a different address if Borrowers gives notice of a different address.
7. Any guarantor, surety, or endorser of this *Promissory Note* is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this *Promissory Note* against each signer, individually or against all signers, together.
8. Borrowers and any other person who has obligations under this *Promissory Note* waive the rights of *Presentment* and *Notice of Dishonor*. "*Presentment*" shall mean the right to require the Note Holder to demand payment of amount due; "*Notice of Dishonor*" shall mean the right to require the Note Holder to give notice to other persons that amount due has not been paid.

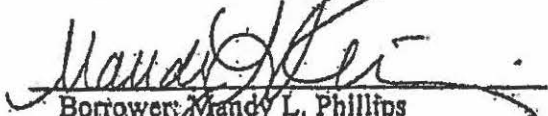


9. This *Promissory Note* is secured by a security interest in certain real estate located at 20 Crest Road, Wayland, MA 01778 known as *Dudley Chateau of Cochituate, Inc.* described in the *Security Agreement* and a mortgage deed executed this date by the Lender and the Borrower.

  
Witness

  
Witness

  
Borrower: Kenneth Phillips

  
Borrower: Mandy L. Phillips

Date: March 15, 2012

# EXHIBIT C

GROSSLEY LAW OFFICES, LLC  
ATTORNEYS AT LAW

A MASSACHUSETTS LAW FIRM

448 Concord Street  
Braintree, MA 01702

Phone: (508) 655-6085  
Fax: (508) 310-9022  
dgrossley@grossley-law.com

March 13, 2017

Via regular USPS mail and cert mail no: 70112970000270000920

Kenneth Phillips and Mandy Phillips  
Dudley Chateau Bar & Restaurant  
1085 Worcester Street, 1<sup>st</sup> Floor  
Natick, MA 01760

Kenneth Phillips and Mandy Phillips  
Dudley Chateau Bar & Restaurant  
20 Crest Road  
Wayland, MA 01778

Kenneth Phillips and Mandy Phillips  
17 Cottage Street  
Natick, MA 01760

Re: Unpaid balance for \$100,000.00 Promissory Note to Patricia Sullivan -  
Violation of M.G.L. c. 93A

Dear Kenneth Phillips and Mandy Phillips,

This firm represents Patricia Sullivan ("Sullivan") with regard to the Promissory Note, which you executed concurrent with Dennis Sullivan's sale to you of the real property at 20 Crest Road, Wayland, MA, and the business commonly known as the Dudley Chateau.

As you know, on March 15, 2012, you executed a Promissory Note (Exhibit A) in favor of Dennis Sullivan in the original principal amount of \$100,000.00 (the "Note"). As security for your obligations under the Note, you granted a security agreement in favor of Mr. Sullivan. On March 22, 2012, Dennis Sullivan transferred all of his rights under the Promissory Note to his wife Patricia Sullivan (Exhibit B). You were provided with notice of said transfer on or about March 22, 2012. (See, letter of John Mahaney dated March 22, 2012, attached hereto as Exhibit C). You have failed to honor the terms of the Promissory Note, which is currently in default as follows:

- A. January 2017 payment: \$1,666.66 due and owed;
- B. February 2017 payment: \$1,666.66 due and owed; and
- C. March 2017 payment: \$1,666.66 due and owed.

CROSSLEY LAW OFFICES, LLC  
ATTORNEYS AT LAW

A MASSACHUSETTS LAW FIRM

Kenneth Phillips and Mandy Phillips  
Dudley Chateau Bar & Restaurant  
March 13, 2017  
Page Two of Four

Additionally, as you know, the Promissory Note provides in relevant part that:

2. Borrowers will pay the principal only, without any interest, by making payments of \$1,666.66 on the first of each month beginning June 1, 2012, and on each and every month thereafter, for a total of sixty (60) monthly payments, and
3. If the Note Holder has not received the full monthly amount by the end of seven (7) calendar days after the date due, Borrowers will pay the Note Holder 10% of the monthly overdue principal payment.

I am advised by Patricia Sullivan that payments due under the Note were rarely, if ever, paid on time. We have used bank records to construct a payment history, and these records establish that all payments from October 2013 through November 2016 (which represents thirty-seven (37) months) were not paid on time. Thus, the accrued late fees, which you presently owe, are as follows:

D. Accrued late fees owed: \$6,165.42 (10% of the monthly overdue principal payment [ $\$1,666.66$ ] x 37 months)

As is her right under the Promissory Note, Patricia Sullivan hereby provides you with notice that she has accelerated the full payment due to her under the Note, and hereby demands immediate full payment in the amount of \$11,166.40, within fifteen (15) calendar days of the date hereof. We anticipate receiving your certified check, bank check, or money order directly, on behalf of our client. Said payment shall be in the aforementioned amount, and made payable to CROSSLEY LAW OFFICES, As Counsel For Patricia Sullivan.

Additionally, Mrs. Sullivan requires a detailed written explanation regarding the \$2,320.78 payment, which Mrs. Sullivan received from you on or about December 18, 2015. Her records reflect that the full amount then owed for the months of September through December 2015, would have properly been \$6,666.64 (not inclusive of late fees owed). It would therefore appear that you owe an additional balance of \$4,345.86 to her for those identified months. Mrs. Sullivan has related to me that when she questioned you regarding why she was receiving less than full payment from you, you told her that she "owed taxes", and that since you had to pay those taxes yourself, you had deducted that amount from the monthly payments due to her. At first blush, it is hard to fathom what kind of taxes Mrs. Sullivan could possibly owe in late 2015 from a business Purchase & Sale arrangement, which took place in June of 2012. Therefore, at this stage we are simply asking that you provide an accounting and explanation of which taxes Mrs. Sullivan owed in late 2015 and the basis and support for your contention that she, as opposed to you, owed these taxes. Mrs. Sullivan reserves the right to demand payment in full from you of the additional \$4,345.86 should circumstances warrant.



CROSSLEY & LAW OFFICES, LLC

ATTORNEYS AT LAW

A MASSACHUSETTS LAW FIRM

Kenneth Phillips and Mandy Phillips

Dudley Chateau Bar & Restaurant

March 13, 2017

Page Three of Four

Furthermore, it has come to Patricia Sullivan's attention that, on or about December 5, 2016, the Town of Wayland, MA, issued a Common Victualler License (Exhibit D) to "The Dudley Chateau of Cochrane, Inc., Dennis P. Sullivan, Manager ("Dudley, Inc."), on the premises at 20 Crest Road, Wayland MA 01778. Said license permits, among other things, the sale of all kinds of alcoholic beverages to be drunk on the premises. Mrs. Sullivan has serious concerns about how and why the Town of Wayland came to issue said license in the name of her husband Dennis Sullivan, as Manager when:

- a. Mr. Sullivan has resided in Assisted Living for nearly ten (10) years;
- b. Dudley Inc. was involuntarily dissolved on May 31, 2007, by the Secretary of the Commonwealth of Massachusetts;
- c. You have been operating the Dudley Chateau as the Dudley Chateau LLC since 2008; and
- d. Per the terms of the business Purchase & Sale Agreement you were to have transferred all necessary licenses from Mr. Sullivan's name to your name within thirty (30) days of your acquisition of the business (which would have been sometime around July/August of 2012).

It would appear that, to preserve your ability to maintain and sell liquor at the Dudley Chateau, you have somehow convinced the Town of Wayland that Mr. Sullivan is actively engaged as a Manager of the premises, which he clearly is not. At this juncture we have just begun our investigation into this matter and we will be seeking the assistance of the Town of Wayland Licensing Board to further that investigation. Mrs. Sullivan wishes to provide you with an opportunity to explain what has actually transpired in the issuance of said license because at this point it would appear that an act of bad faith has taken place, one which constitutes an unfair and deceptive act or practice in violation of M.G.L. c. 93A §2 and §11. For a whole host of reasons, not the least of which are concerns over liability issues, you must, at an absolute minimum, immediately advise the Town of Wayland Licensing Board that Mr. Sullivan is not now, and has not been, a Manager of the premises for almost nine (9) years.

This will be your only notice regarding this matter. Should you fail to pay Mrs. Sullivan the sums that you owe to her (as outlined in detail above) within fifteen (15) days, our client has authorized this firm to file suit against you for: (1) Breach of Contract; and (2) Quantum Meruit. Thereafter, her Complaint will be amended in due course to state a claim for violation of Chapter 93A, once the statutory period for your response to this demand letter has passed.

Mrs. Sullivan is prepared to present to a Court the relevant facts set forth herein, which we believe entitle her to relief, possible multiple damages, interest, and legal fees and costs under M.G.L.c. 93A. We hope that will not be necessary. Multiple damages can be avoided under M.G.L.c. 93A if a reasonable offer of settlement is made within thirty days of the date of this letter. Of course, a settlement will also avoid the additional attorney time and expense, which all parties will incur if Mrs. Sullivan's rights must be litigated.

CROSSLEY, LAW OFFICES, LLC  
ATTORNEYS AT LAW  
A MASSACHUSETTS LAW FIRM

Kenneth Phillips and Mandy Phillips  
Dudley Chateau Bar & Restaurant  
March 13, 2017  
Page Four of Four

Should you have any questions regarding this matter you may contact me directly; our client has instructed that you are not to initiate contact with her.

Best regards,



David C. Crossley

DCC/fyc  
Encl.  
cc:

Patricia Sullivan (via email w/o encl)

# EXHIBIT A

# CLIENT'S COPY

## PROMISSORY NOTE

U.S. \$100,000.00

Natick, Massachusetts


March 15, 2012

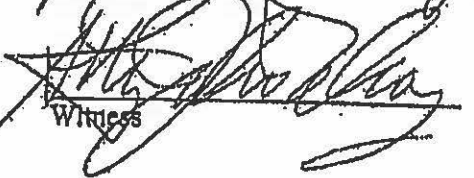
1. In return for a loan received, *Kenneth Phillips & Mandy L. Phillips both* ("Borrowers") of 20 Crest Rd. Cochrane promises to pay \$100,000 ("the principal") to *Dennis Sullivan or order* (the "Lender") of 23 Morse Street, Natick, MA. The Lender, or anyone who takes this *Promissory Note* by transfer, is known as "the Note Holder".
2. Borrowers will pay the principal only, without any interest, by making payments of \$1,666.66 on the first of each month beginning June 1, 2012, and on each and every month thereafter, for a total of sixty (60) monthly payments.
3. If the Note Holder has not received the full monthly amount by the end of seven (7) calendar days after the date due, Borrowers will pay to the Note Holder 10% of the monthly overdue principal payment.
4. If the Borrowers are in default, and remain in default for seven (7) days with respect to monthly payment, the Note Holder may thereafter, by delivering notice to the Borrowers, require payment of the *full amount of principal* which has not been paid and any of the interest owed on that amount. If the Note Holder gives Borrowers such notice demanding immediate payment in full, Borrowers shall then have fifteen (15) days in which to make payment.
5. If the Note Holder requires immediate payment in full as described above, the Note Holder shall have the right to be paid for all of its costs and expenses in enforcing this Note, including attorney's fees and costs.
6. Any Notice that must be given to Borrowers under this *Promissory Note* shall be given by delivering or mailing, first class mail, to Borrowers at the addresses specified above, or at a different address if Borrowers gives notice of a different address.
7. Any guarantor, surety, or endorser of this *Promissory Note* is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this *Promissory Note* against each signer, individually or against all signers, together.
8. Borrowers and any other person who has obligations under this *Promissory Note* waive the rights of *Presentment* and *Notice of Dishonor*. "*Presentment*" shall mean the right to require the Note Holder to demand payment of amount due; "*Notice of Dishonor*" shall mean the right to require the Note Holder to give notice to other persons that amount due has not been paid.


MP

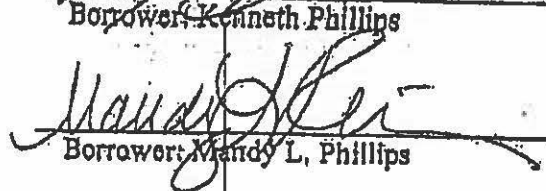


9. This *Promissory Note* is secured by a security interest in certain real estate located at 20 Crest Road, Wayland, MA 01778 known as *Dudley Chateau of Coochituate, Inc.* described in the *Security Agreement* and a mortgage deed executed this date by the Lender and the Borrower.

  
Witness

  
Witness

  
Borrower: Kenneth Phillips

  
Borrower: Mandy L. Phillips

Date: March 15, 2012

# EXHIBIT B

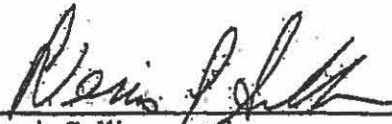
# CLIENT'S COPY

## NOTICE OF TRANSFER

### PROMISSORY NOTE MARCH 15, 2012

I, Dennis Sullivan of 23 Morse Street, Natick, MA 01760 hereby transfers and gives full ownership of the Promissory Note signed by Kenneth Phillips and Mandy L. Phillips dated March 15<sup>th</sup>, 2012 to the new "Note Holder" Patricia Sullivan. Under the terms of the Promissory Note Patricia Sullivan will receive payments in the amount of one thousand six hundred sixty-six dollars and sixty-six (\$1,666.66) cents on the first of each month beginning June 1<sup>st</sup>, 2012 and on each and every month thereafter for a total of sixty (60) monthly payments.

All terms and conditions of the Promissory Note as above dated shall be in full force and effect.

  
Dennis Sullivan

## COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

Date: March 22, 2012

On this 22<sup>nd</sup> day of March, 2012 before me, the undersigned notary public personally appeared Dennis Sullivan, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the attached document and acknowledged to me that he signed it voluntarily for its stated purpose.

  
John D. Mahaney, Notary Public  
My Commission Expires: 02/08/2013

# EXHIBIT C



# CLIENT'S COPY

JOHN D. MAHANEY

ATTORNEY AT LAW

10 BLIOT STREET • RT. 16 • S. NATICK • MASSACHUSETTS 01760 • (508) 853-8580

MAHANEY LAW OFFICE

GERARD M. MAHANEY

JOHN D. MAHANEY

JOHN W. MAHANEY

1940-1970

March 22, 2012

Mr. Kenneth Phillips  
Mrs. Mandy L. Phillips  
20 Crest Road  
Wayland, MA 01778

RE: Promissory Note Transfer

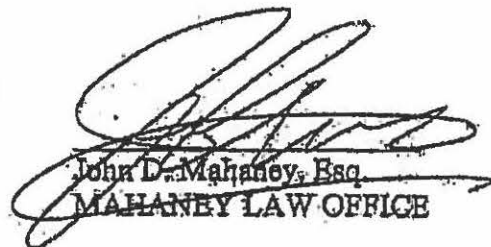
Dear Mr. and Mrs. Phillips:

Please accept this letter as your official notice that under the Terms of the Promissory Note, dated March 15, 2012 signed by you for payment to Dennis Sullivan of 23 Morse Street, Natick MA 01760, Mr. Sullivan has transferred ownership of the Promissory Note to Patricia Sullivan the new "Note Holder."

Please forward all payments beginning June 1<sup>st</sup>, 2012 in the amount of \$1,666.66 to the new Note Holder, Patricia Sullivan at 23 Morse Street, Natick, MA 01760.

Thank you.

Very Truly yours,

  
John D. Mahaney, Esq.  
MAHANEY LAW OFFICE

JDM/lsc  
Encl.

# EXHIBIT D



# LICENSE ALCOHOLIC BEVERAGES

The Town of Wayland  
MASSACHUSETTS  
HEREBY GRANTS A

## COMMON VICTUALLER

License to Expose, Keep for Sale, and to Sell  
All Kinds of Alcoholic Beverages

*To Be Drunk On the Premises*

To THE DUDLEY CHATEAU OF COCHITUATE INC., Dennis P. Sullivan, Manager, on the premises at: 20 Crest Road, Wayland MA 01778

First floor - dining room and kitchen; basement for storage only. Seating Capacity: 63 Waiting on lower level: 22

This license is granted and accepted upon the express condition that the licensee shall, in all respects, conform to all the provisions of the Liquor Control Act, Chapter 138 of the General Laws, as amended, and any rules or regulations made thereunder by the licensing authorities. This license expires December 31st, 2017, unless earlier suspended, cancelled or revoked.

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed their official signatures this 5<sup>th</sup> day of December, 2016.

The Hours during which Alcoholic Beverages may be sold are from 8:00 a.m. to midnight-daily, except Sundays, 12:00 noon to midnight; holidays as directed.

*Cathy Kenney*

*Lee T. Anderson*

*Mary M. A. Viper*

*[Signature]*

LICENSING BOARD

THIS LICENSE SHALL BE DISPLAYED ON THE PREMISES IN A CONSPICUOUS POSITION WHERE IT CAN EASILY BE READ

# EXHIBIT D



## SETTLEMENT AGREEMENT

### I. PARTIES:

This Settlement Agreement (Agreement) is made as of the date set forth on the last page hereof. The parties to this Agreement are Kenneth and Mandy Phillips (hereinafter "the Phillips"), and Patricia Sullivan and Dennis Sullivan (hereinafter "the Sullivans"). Hereinafter, the Phillips and the Sullivans may be referred to individually as a 'party' and together as the 'parties'.

### 2. RECITALS:

2.1 Certain disputes and controversies have arisen among the Parties.

2.2 Such disputes and controversies include the claims, demands and causes of action asserted the Sullivans against the Phillips relative to (a) the December 5, 2016 issuance by the Town of Wayland, MA, of a Common Victualler License to The Dudley Chateau of Cochituate, Inc., Dennis P. Sullivan, Manager, on the premises at 20 Crest Road, Wayland MA 01778, and (b) the \$100,000.00 secured Promissory Note that comprised a portion of the purchase price paid by the Phillips relative to the March 15, 2012, sale, by the Sullivans to the Phillips, of the real property at 20 Crest Road, Wayland, MA, and the business commonly known as the Dudley Chateau (hereinafter "the Business"). Such disputes and controversies shall include all known or unknown claims, potential claims, counterclaims, crossclaims, lawsuits, demands for arbitration, mediation, alternative dispute resolution, and any and all subsequent letters, faxes, emails and other communications and documentations (hereinafter "Dispute").

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2.3 It is the intention of the Parties hereto to settle and dispose of, fully and completely, anything and everything heretofore or hereafter arising out of, connected with or incidental to the Dispute between the parties hereto.

2.4 The Parties agree that nothing contained herein shall be construed or considered to be an admission by the parties (i) of any wrongdoing or any other obligation or right arising either by statute (state, local or federal) or common law, or (ii) that either party is the prevailing party in this matter.

NOW THEREFORE, for good and valuable consideration (including but not limited to the covenants and agreement heretofore and hereinafter set forth), the receipt and sufficiency of which is hereby acknowledged, the undersigned parties agree as follows:

3. AGREEMENT and RELEASES:

3.1 In consideration of the recitals and in consideration of the mutual covenants contained herein, the Phillips shall:

- (a) Take all necessary steps (including, but not limited to, drafting, filing and paying all fees associated with corporate Annual Reports and Liquor License transfer documents for The Dudley Chateau of Cochituate, Inc.), in order to have the Town of Wayland, MA, transfer the Common Victualler License (on the premises at 20 Crest Road, Wayland MA 01778) for The Dudley Chateau of Cochituate, Inc., out of the name of Dennis P. Sullivan, Manager, on or before June 15, 2017. So long as the Phillips have taken all steps outlined in 3.1 (a) through (c), then the Sullivans shall also provide the Phillips with a

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- moderate amount of additional time beyond June 15, 2017, for the process of the transfer of the liquor license to finalize. In no event shall a moderate amount of additional time exceed an additional ninety (90) days beyond June 15, 2017;
- (b) Pay all outstanding taxes owed by The Dudley Chateau of Cochrane, Inc., to Mass. Department of Revenue or any other taxing authority;
- (c) Pay to the CROSSLEY LAW OFFICES as Attorneys for Patricia Sullivan, the gross sum of Sixteen Thousand U.S. Dollars (USD \$16,000.00) (hereinafter the "Settlement Payment") in certified funds (bank check or cashier's check) in the following amounts and on the following dates:
- a. \$4,000.00 on or before Monday, April 17, 2017;
  - b. \$4,000.00 on or before Monday, May 1, 2017;
  - c. \$4,000.00 on or before Monday, May 15, 2017;
  - d. \$4,000.00 on or before Monday, May 29, 2017.
- (d) Indemnify and hold harmless Patricia Sullivan and Dennis Sullivan for any and all acts from February 11, 2008 onwards, which are related in any way to the Phillips' continued ownership and running of the Dudley Chateau, and the sale of alcoholic beverages through said establishment. It is the specific intent of all the parties that this clause have the broadest possible meaning and coverage, including but not limited to, the Phillips having sole liability for acts that occur both on and off the premises of the Dudley Chateau, which acts involve the purchase, sale and/or consumption of alcoholic beverages. This indemnification provision shall

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also include any and all acts or claims by any person, business entity, municipality or government agency as related to the Phillips' continued operation of the Dudley Chateau since February 11 2008, under successive Common Victualler Licenses for The Dudley Chateau of Cochituate, Inc., which appear to have all been issued in the name of Dennis P. Sullivan, Manager, on the premises at 20 Crest Road, Wayland MA 01778.

Failure by the Phillips to make said payment according to the terms set forth above, and/or said payment resulting in a determination of Insufficient Funds or Nonsufficient Funds by the bank, shall be a material breach of this Agreement. In the event of a material breach by either party the parties hereby agree to the entry of An Agreement for Judgment (a/k/a a Confession of Judgment), in any Court in the State of Massachusetts deemed to have jurisdiction over this matter, in a sum certain equal to the amount of the aforementioned Settlement Payment, or for specific performance, plus that parties' reasonable attorneys' fees and costs. In accordance with the foregoing, each party understands and agrees that this signed Agreement shall be provided to the Court as evidence of the Agreement for Judgment (a/k/a Confession of Judgment) and the provision of this signed Agreement to the Court shall not be a breach of any of the terms of this Agreement.

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3.2 In consideration of the recitals and in consideration of the mutual covenants contained herein, the Sullivans shall:

(a) Sign over to Mandy Phillips 100% of the Sullivans' shares of The Dudley Chateau of Cochituate, Inc., as soon as new Corporate Share Certificates can be ordered and received. The Sullivans, by way of their counsel at the CROSSLEY LAW OFFICES, shall provide the Phillips with the necessary signed share transfer certificates/documents, as soon as possible (as identified above), however, should the Phillips fail to make all payments set forth in 3.1(c) above, then said share transfer certificates/documents shall be null and void;

(b) Sign all corporate Annual Reports and related documentation necessary for the Phillips to accomplish the actions identified in 3.1(a), so long as said documents presented to the Sullivans are accurate. All such documents shall be presented to the Sullivans by the Phillips, by way of their counsel at the CROSSLEY LAW OFFICES;

(c) Refrain from pursuing the causes of action set forth in their March 13, 2017, M.G.L. c. 93A Demand letter to the Phillips;

(d) Refrain from contacting the Town of Wayland, MA or the Mass. State ABCC relative to the Liquor license and Common Victualler License (on the premises at 20 Crest Road, Wayland MA, 01778) for The Dudley Chateau of Cochituate, Inc.; and

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(e) So long as the Phillips have taken all steps outlined in 3.1 (a) through (g) above, then the Sullivans shall also provide the Phillips with a moderate amount of additional time beyond June 15, 2017, for the process of the transfer of the liquor license to finalize. The parties understand that they cannot control how quickly the municipality of the Town of Wayland will act upon the Phillips' request, but in no event shall a moderate amount of additional time exceed an additional ninety (90) days beyond June 15, 2017.

3.3 The Parties and their successors, heirs and assignees hereby release, remise, forever discharge each other from all debts, demands, actions, causes of action, suits, accounts, covenants, contracts, agreements, damages and all claims, counterclaims, crossclaims, and liabilities of every nature heretofore or hereafter arising out of, connected with or incidental to the dealings between the Parties hereto prior to the effective date hereof relating to the Dispute, and further covenant not to submit to mediation, arbitration or to sue the other party for any matters arising out of the Dispute from now until the end of time, including but not limited to any claims or disputes related to the Dispute.

4. REPRESENTATIONS AND WARRANTIES:

The Parties to this Agreement represent, warrant and agree as follows:

4.1 Each Party has received independent legal advice from its attorneys, with respect to the advisability of executing this Agreement.

4.2 Each Party has read this Agreement and understands its contents.

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4.3 Each Party has not heretofore assigned, transferred or granted, or purported to assign, transfer or grant any of the claims, demands, and causes of action that are the subject matter of this Agreement.

4.4 This Agreement is intended to be and is final and binding between the Parties hereto.

4.5 The Parties agree to maintain the confidentiality of this Agreement, not discussing with anyone the terms of this Agreement, only that the Dispute was settled. The parties agree that this Agreement, and all information relating in any way to the subject matter of this Agreement, including but not limited to the existence of the Agreement or the reasons therefor, and any of the other specific terms of this Agreement, and the specific events, allegations and events giving rise to the Agreement, shall be held confidential by the parties and shall not be publicized or disclosed to any person (other than the parties respective legal counsel and / or tax advisor, provided that any such individual to whom disclosure is made agrees to be bound by these confidentiality obligations), business entity or government agency (except as otherwise provided in this Agreement or mandated by state or federal law). Upon inquiry regarding the dispute and/or settlement of the same, the parties shall state only that the dispute has been resolved to their respective satisfaction. The parties further agree that they will not voluntarily make any statements or take any actions that could be interpreted to constitute disparaging or adverse statements about the respective parties or which are intended to harm the reputation of the respective parties, including but not limited to, any statements that disparage any service, capability or any other aspect of the parties, conduct or business operations.

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4.6. Should any party breach the terms of this Agreement the other parties hereto shall be entitled to disclose the terms of the Agreement in order to enforce this Agreement, and shall also be entitled to recover the full costs of the following, incurred as a result of that party's attempt to enforce this Agreement:

- A. Attorneys' fees;
- B. Court, mediation, arbitration or ADR costs, filing fees and service fees;
- C. Interest (at the annual rate of 12%) accruing from the date of the breach of this Agreement.

5. CLAIMS:

This Agreement constitutes the settlement of all known and unknown claims that are or could be denied and contested, and nothing contained herein shall be construed as an admission by any Party hereto of any liability of any kind to the other Party. The Parties hereto deny any liability in connection with any claim, and intend merely to avoid further protracted discussion and demands regarding the Dispute.

6. MISCELLANEOUS:

6.1 This Agreement shall be deemed to have been executed and delivered within the Commonwealth of Massachusetts, and the rights and obligations of the Parties hereto shall be construed and enforced in accordance with, and governed by, the laws of the Commonwealth of Massachusetts.

6.2 This Agreement is the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written

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JS POC

10/17/17



agreements and discussions. This is a fully integrated Agreement. This Agreement may be amended only as an agreement in writing signed by the parties hereto.

6.3 This Agreement is binding upon and shall inure to the benefit of the Parties hereto, and their respective representatives, agents, assigns, and successors in interest.

6.4 Each Party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party.

6.5 This Agreement may be executed in counterparts so when each party has signed and delivered at least one such counterpart, each such counterpart shall be deemed an original, and when taken together with other signed counterparts, shall constitute one agreement, which shall be binding upon and effective as to the Parties.

6.6 In case any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been a part hereof.

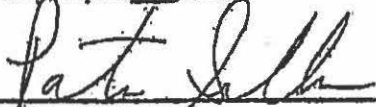
6.7 This Agreement, consisting of 9 pages, including the signature page(s) is made and entered into effective on and as of the date set forth below. A photocopy or facsimile copy of this agreement, and the signatures contained therein, may be accepted with the same validity as the original.

*(the remainder of this page has intentionally been left blank)  
-signature page to follow-*


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Dated: April 19, 2017

  
\_\_\_\_\_  
Patricia Sullivan

Dated: April 19, 2017

  
\_\_\_\_\_  
Patricia Sullivan as POA

Dated: April 25, 2017

  
\_\_\_\_\_  
Kenneth Phillips

Dated: April 15, 2017

  
\_\_\_\_\_  
Mandy Phillips

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# EXHIBIT E



# LICENSE ALCOHOLIC BEVERAGES

The Town of Wayland  
MASSACHUSETTS

HEREBY GRANTS A

## COMMON VICTUALLER

License to Expose, Keep for Sale, and to Sell  
All Kinds of Alcoholic Beverages

*To Be Drunk On the Premises*

To THE DUDLEY CHATEAU OF COCHITUATE INC., Dennis P. Sullivan, Manager, on the premises at 20 Crest Road, Wayland MA 01778

First floor - dining room and kitchen; basement for storage only. Seating Capacity: 63 Waiting on lower level: 22

This license is granted and accepted upon the express condition that the licensee shall, in all respects, conform to all the provisions of the Liquor Control Act, Chapter 138 of the General Laws, as amended, and any rules or regulations made thereunder by the licensing authorities. This license expires December 31st, 2017, unless earlier suspended, cancelled or revoked.

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed their official signatures this 5<sup>th</sup> day of December, 2016.

The Hours during which Alcoholic Beverages may be sold are from 8:00 a.m. to midnight daily, except Sundays, 12:00 noon to midnight; holidays as directed.

*Cathy Kenney*

*Lee F. Anderson*

*William H. H. H. H.*

*[Signature]*

LICENSING BOARD

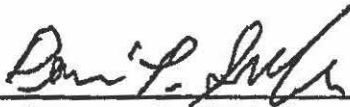
THIS LICENSE SHALL BE DISPLAYED ON THE PREMISES IN A CONSPICUOUS POSITION WHERE IT CAN EASILY BE READ



# EXHIBIT F

TO: Dennis Sullivan  
Dudley Chateau of Cochituate Inc.  
20 Crest Road  
Wayland MA 01778  
License Number 134000005

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under law.



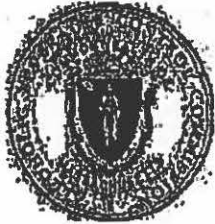
\* Signature of Individual or  
Corporate Name (Mandatory)

By: Corporate Officer  
(Mandatory, if Applicable)

04-281-1473

\*\* Social Security Number (Voluntary) or Federal Identification Number

- \* This license will not be issued unless this certification clause is signed by the applicant.
- \*\* Your Social Security number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Licensees who fail to correct their non-filing or delinquency will be subject to license suspension or revocation. This request is made under the authority of Massachusetts General Laws c. 62C s. 49A.



The Commonwealth of Massachusetts  
 Alcoholic Beverages Control Commission  
 239 Causeway Street  
 Boston, MA 02114  
[www.mass.gov/abcc](http://www.mass.gov/abcc)

**ON PREMISES LICENSE RENEWAL APPLICATION**

LICENSE NUMBER: 134000005

CITY OR TOWN WAYLAND

APPLICATION FOR RENEWAL:

Annual  
 CLASS

LICENSED FOR 2014

YEAR

LICENSEE NAME: DUDLEY CHATBAU OF COCHITUATE INC. THE  
 DOING BUSINESS A DUDLEY CHATEAU INC.

ADDRESS 20 CREST RD.

CITY/TOWN: WAYLAND

STATE: MA

ZIP CODE: 01778

MANAGER: SULLIVAN,  
 DENNIS P.

TYPE OF LICENSE: Restaurant

CATEGORY: All Alcohol

EMAIL ADDRESS: MANDY@KBPLAW.COM

PLEASE ALSO VISIT OUR WEBSITE AND ENTER YOUR EMAIL ADDRESS

**DESCRIPTION OF LICENSED PREMISES:**

FIRST FLOOR, DINING ROOM AND KITCHEN. BASEMENT FOR STORAGE ONLY

I hereby certify and swear under penalties of perjury that:

1. the renewed license will be of the same type for the same premises now licensed;
2. the licensee has complied with all laws of the Commonwealth relating to taxes; and
3. the premises are now open for business (If not explain below)

SIGNED BY

*Dennis Sullivan*

Individual, Partner or Authorized Corporate Officer

04-2811-473

DATE:

12/6/13

TELEPHONE NUMBER:

EMPLOYER IDENTIFICATION NUMBER:

(Note: NOT Individual Social Security Number)

We the undersigned, attest that we are in possession (1) the certificate required by Chapter 304 of the Acts of 2004, signed by the building inspector and the head of the fire department for the above named license and (2) the certificate of liquor liability insurance required by Chapter 116 of the Acts of 2010.

Please Check Below:

APPROVED:

DISAPPROVED:

(If disapproved explain)

LOCAL LICENSING AUTHORITY

By:

*[Handwritten signatures]*

DATE: 12/16/2013

APPLICATION FOR RENEWAL MUST BE FILED BY LICENSEES DURING THE MONTH OF NOVEMBER (M.G.L. Ch. 138 § 16A)



The Commonwealth of Massachusetts  
 Alcoholic Beverages Control Commission  
 239 Causeway Street  
 Boston, MA 02114  
 www.mass.gov/abcc

**ON PREMISES LICENSE RENEWAL APPLICATION**

LICENSE NUMBER: 134000005

CITY OR TOWN WAYLAND

APPLICATION FOR RENEWAL:

Annual  
 CLASS

LICENSED FO 2015

YEAR

LICENSEE NAME: DUDLEY CHATEAU OF COCHITUATE INC. THE  
 DOING BUSINESS A DUDLEY CHATEAU INC.

ADDRESS 20 CREST RD.

CITY/TOWN: WAYLAND

STATE: MA

ZIP CODE: 01778

MANAGER: SULLIVAN,  
 DENNIS P.

TYPE OF LICENSE: Restaurant

CATEGORY: All Alcohol

EMAIL ADDRESS [Orders@TheDudleychateau.com]

YOUR EMAIL ADDRESS IS REQUIRED. PLEASE PRINT CLEARLY.

DESCRIPTION OF LICENSED PREMISES:

FIRST FLOOR, DINING ROOM AND KITCHEN. BASEMENT FOR STORAGE ONLY

I hereby certify and swear under penalties of perjury that:

1. the renewed license will be of the same type for the same premises now licensed;
2. the licensee has complied with all laws of the Commonwealth relating to taxes; and
3. the premises are now open for business (If not explain below)

SIGNED BY

*Dennis Sullivan*

Individual, Partner or Authorized Corporate Officer

04-2811473

DATE: 12/3/14

TELEPHONE NUMBER:

(508) 655-0010

EMPLOYER IDENTIFICATION NUMBER:

(Note: NOT Individual Social Security Number)

We the undersigned, attest that we are in possession (1) the certificate required by Chapter 304 of the Acts of 2004, signed by the building inspector and the head of the fire department for the above named license and (2) the certificate of liquor liability insurance required by Chapter 116 of the Acts of 2010.

Please Check Below:

APPROVED:

DISAPPROVED:

(If disapproved explain)

LOCAL LICENSING AUTHORITY

By:

*Mary M. Andrews*

Mary M. Andrews

DATE: December 8, 2014

APPLICATION FOR RENEWAL MUST BE FILED BY LICENSEES DURING THE MONTH OF NOVEMBER (M.G.L. Ch. 138 § 16A)

*Handwritten initials and signatures*





*the Commonwealth of Massachusetts*  
**Alcoholic Beverages Control Commission**  
 239 Causeway Street  
 Boston, MA 02114  
[www.mass.gov/abcc](http://www.mass.gov/abcc)

**ON PREMISES LICENSE RENEWAL APPLICATION**

LICENSE NUMBER: 134000005

CITY OR TOWN WAYLAND

APPLICATION FOR RENEWAL:

Annual  
 CLASS

LICENSED FOR 2016

YEAR

LICENSEE NAME: DUDLEY CHATEAU OF COCHITUATE INC. THE  
 DOING BUSINESS AS DUDLEY CHATEAU INC.

ADDRESS 20 CREST RD.

CITY/TOWN: WAYLAND

STATE: MA

ZIP CODE: 01778

MANAGER: SULLIVAN,  
 DENNIS P.

TYPE OF LICENSE: Restaurant

CATEGORY: All Alcohol

EMAIL ADDRESS: MANDY@KBPLAW.COM

YOUR EMAIL ADDRESS IS REQUIRED. PLEASE PRINT CLEARLY.

**DESCRIPTION OF LICENSED PREMISES:**

FIRST FLOOR, DINING ROOM AND KITCHEN. BASEMENT FOR STORAGE ONLY

I hereby certify and swear under penalties of perjury that:

1. the renewed license will be of the same type for the same premises now licensed;
2. the licensee has complied with all laws of the Commonwealth relating to taxes; and
3. the premises are now open for business (If not explain below)

SIGNED BY

*Mandy P...*

Individual, Partner or Authorized Corporate Officer

DATE: 11/27/15

TELEPHONE NUMBER:

(508) 655-0010

Mandy P... 04-281-1473

EMPLOYER IDENTIFICATION NUMBER:

(Note: NOT Individual Social Security Number)

We the undersigned, attest that we are in possession (1) the certificate required by Chapter 304 of the Acts of 2004, signed by the building inspector and the head of the fire department for the above named license and (2) the certificate of liquor liability insurance required by Chapter 116 of the Acts of 2010.

Please Check Below:

APPROVED:

DISAPPROVED:

(If disapproved explain)

LOCAL LICENSING AUTHORITY

By:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

DATE:

APPLICATION FOR RENEWAL MUST BE FILED BY LICENSEES DURING THE MONTH OF NOVEMBER (M.G.L. Ch. 138 § 16A)



# LICENSE ALCOHOLIC BEVERAGES

The Town of Wayland  
MASSACHUSETTS

HEREBY GRANTS A

## COMMON VICTUALLER

License to Expose, Keep for Sale, and to Sell  
All Kinds of Alcoholic Beverages

*To Be Drunk On the Premises*

To THE DUDLEY CHATEAU OF COCHITUATE INC., Dennis P. Sullivan, Manager, on the premises at 20 Crest Road, Wayland MA 01778

First floor - dining room and kitchen; basement for storage only. Seating Capacity : 63 Waiting on lower level: 22

This license is granted and accepted upon the express condition that the licensee shall, in all respects, conform to all the provisions of the Liquor Control Act, Chapter 138 of the General Laws, as amended, and any rules or regulations made thereunder by the licensing authorities. This license expires December 31st, 2017, unless earlier suspended, cancelled or revoked.

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed their official signatures this 5<sup>th</sup> day of December, 2016.

The Hours during which Alcoholic Beverages may be sold are from 8:00 a.m. to midnight daily, except Sundays, 12:00 noon to midnight; holidays as directed.

*Cathy Keenan*

*Max T. Anderson*

*William D. H. H. H.*

*[Signature]*

LICENSING BOARD

THIS LICENSE SHALL BE DISPLAYED ON THE PREMISES IN A  
CONSPICUOUS POSITION WHERE IT CAN EASILY BE READ

COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT OF THE COMMONWEALTH  
SUPERIOR COURT DEPARTMENT

MIDDLESEX, ss.

WOBURN DIVISION  
CIVIL ACTION # 1781CV03623

---

DENNIS SULLIVAN, /  
(Patricia Sullivan as Power of Attorney) /  
Plaintiff /  
/ /  
v. /  
KENNETH PHILLIPS, MANDY PHILLIPS /  
Defendants, /  
/ /  
and /  
TOWN OF WAYLAND and, /  
ALCOHOLIC BEVERAGES CONTROL /  
COMMISSION /  
Necessary Parties. /

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TOWN OF WAYLAND  
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2017 DEC 14 AM 11:12

**NOTICE OF HEARING**

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You are hereby informed that a hearing on the Plaintiff, Dennis Sullivan's Motion for an Injunction, shall take place on December 18, 2017 at 2:00 pm, in the Middlesex Superior Court, Room 420, 200 Trade Center, Woburn, MA 01801. You are further hereby notified that by appearing to be heard on the motion you are not waiving service of the Summons and Complaint in the usual manner.

Dated: December 13, 2017

PLAINTIFF

Dennis Sullivan

By his attorneys,

/s/ David C. Crossley

DAVID C. CROSSLEY, ESQ. (BBO#648197)

For CROSSLEY LAW OFFICES, LLC

448 Concord Street

Framingham, MA 01702

Tel. (508) 633-6085

Fax: (508) 310-9022

Email: [dcrossley@crossley-law.com](mailto:dcrossley@crossley-law.com)



COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT OF THE COMMONWEALTH  
SUPERIOR COURT DEPARTMENT

MIDDLESEX, ss.

WOBURN DIVISION  
CIVIL ACTION # 1781CV03623

DENNIS SULLIVAN,  
(Patricia Sullivan as Power of Attorney)  
Plaintiff

v.

KENNETH PHILLIPS, MANDY PHILLIPS/  
Defendants,

and

TOWN OF WAYLAND and,  
ALCOHOLIC BEVERAGES CONTROL  
COMMISSION  
Necessary Parties.

RECEIVED  
TOWN OF WAYLAND  
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2017 DEC 14 AM 11:12

**PLAINTIFF'S REQUEST FOR A SHORT ORDER OF NOTICE  
on his MOTION FOR A PRELIMINARY INJUNCTION**

Now comes the Plaintiff, by and through his valid Power of Attorney, Patricia Sullivan ("Sullivan" or "Plaintiff"), and respectfully requests that this Court issue a short order of notice to co-Defendants Kenneth Phillips and Mandy Phillips and Necessary Parties, the Town of Wayland and the Alcoholic Beverages Control Commission, to show cause why the Court should not grant the Plaintiff's requested Motion for a Preliminary Injunction. In support of, and as grounds for his Motion, the Plaintiff relies on the Verified Complaint and the Exhibits submitted therewith.

WHEREFORE, the Plaintiff respectfully requests that a Short Order of Notice be entered (in the proposed form attached hereto), on the Plaintiff's Motion for a Preliminary Injunction, for the co-Defendants and the Necessary Parties to appear before the Court on December \_\_, 2017 at 9:00 am., to show cause why the Court should not grant the Plaintiff's requested Preliminary Injunction.

Dated: December 11, 2017

Respectfully submitted,  
Dennis Sullivan  
Patricia Sullivan, Power of Attorney  
By his counsel,

/s/ David C. Crossley  
DAVID C. CROSSLEY, ESQ. (BBO#648197)  
For CROSSLEY LAW OFFICES, LLC  
448 Concord Street  
Framingham, MA 01702  
Tel. (508) 655-6085  
Fax: (508) 310-9022  
Email: [dcrossley@crossley-law.com](mailto:dcrossley@crossley-law.com)

Attorneys for Dennis Sullivan

COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT OF THE COMMONWEALTH  
SUPERIOR COURT DEPARTMENT

MIDDLESEX, ss.

WOBURN DIVISION  
CIVIL ACTION # 1701CV03623

DENNIS SULLIVAN,  
(Patricia Sullivan as Power of Attorney)  
Plaintiff

v.

KENNETH PHILLIPS, MANDY PHILLIPS/  
Defendants,

and

TOWN OF WAYLAND and,  
ALCOHOLIC BEVERAGES CONTROL  
COMMISSION  
Necessary Parties.

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TOWN OF WAYLAND  
TOWN CLERK  
2017 DEC 14 AM 11:12

**PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION TO ENJOIN THE  
DEFENDANTS FROM CONTINUING TO MAKE USE OF A LIQUOR LICENSE AND  
A COMMON VICTUALLER LICENSE ISSUED IN THE NAME OF  
DENNIS P. SULLIVAN**

Plaintiff, Dennis Sullivan, ("Sullivan"), hereby moves, pursuant to Mass. R. Civ. P. 65,  
that this Court enter an Order:

- (1) Enjoining and restraining Defendants, Kenneth Phillips and Mandy Phillips (collectively "the Phillips") and Necessary Parties the Town of Wayland and the Alcoholic Beverages Control Commission, and their respective managers, members, officers, agents, representatives, servants, employees and attorneys, all persons acting in concert with them, and each of them, and each of them, from:
  - (a) Continuing to make use of and/or issue renewals of the Liquor License and the Common Victualler License (attached to the Verified Complaint as

Exhibit "E") for The Dudley Chateau of Cochituate, Inc., issued in the name of Dennis P. Sullivan, Manager, relative to the business located at 20 Crest Road, Wayland MA; and

- (b) Failing to take all necessary steps to immediately remove Dennis P. Sullivan's name from the Liquor License and the Common Victualler License for The Dudley Chateau of Cochituate, Inc., issued in the name of Dennis P. Sullivan, Manager, relative to the business located at 20 Crest Road, Wayland MA.

**I. MOTION FOR PRELIMINARY INJUNCTION TO ENJOIN THE DEFENDANTS FROM CONTINUING TO MAKE USE OF A LIQUOR LICENSE AND A COMMON VICTUALLER LICENSE ISSUED IN THE NAME OF DENNIS P. SULLIVAN**

1. During the course of issuing the Phillips with a Chapter 93A Demand Letter, the Plaintiff discovered that the Phillips appear to have been signing and/or forging his name to annual Liquor License and Common Victualler License renewal applications, which the Phillips then presented to the Town of Wayland and the ABCC (Verified Complaint, ¶¶15-16, and Exhibits "E" through "F" thereto).

2. Upon information and belief, for the past several years, one or both of the Phillips, on an annual basis, have been submitting documentation to the ABCC and/or the Town of Wayland, in order to procure annual renewals of the Liquor License and the Common Victualler License for Dudley, Inc., in the Plaintiff's name, without any permission or authorization to do so (Verified Complaint, ¶16, and Exhibit F thereto).

3. It would appear that, to preserve their ability to maintain and sell liquor at the Dudley Chateau, from 2012 through 2017, the Phillips somehow convinced the Town of Wayland and the ABCC that Mr. Sullivan was actively engaged as a Manager of the Dudley Chateau, which he clearly is not since he has resided in Assisted Living at the long-term care facility WINGATE AT SUDBURY, 136 Boston Post Road, Sudbury, MA, for the past ten (10) years, and has had absolutely no involvement whatsoever with the Business, since the date of his sale of the Business to the Phillips in 2012 (Verified Complaint, ¶20).

4. The Phillips agreed (as part of a Settlement Agreement) to complete certain curative steps on or before September 15, 2017, to cause Sullivan's name to be removed from the Liquor License and the Common Victualler License for The Dudley Chateau of Cochituate, Inc.



(Verified Complaint, ¶13-14, and Exhibit "D" ¶3.1). The Phillips have wholly failed to complete said curative steps and in so doing have materially breached the terms of the Settlement Agreement.

5. Sullivan will suffer substantial and irreparable injury if the Phillips are permitted to continue to mislead the Town of Wayland and the ABCC concerning Mr. Sullivan's status as the Manager of the Dudley Chateau (Verified Complaint, ¶24). There is more than a reasonable likelihood that Sullivan will prevail on his claim that the Phillips have breached the Settlement Agreement entered into between Sullivan and the Phillips which, among other things, required that, on or before September 15, 2017, the Phillips cause Sullivan's name to be removed from the Liquor License and the Common Victualler License for The Dudley Chateau of Cochituate, Inc. (Verified Complaint, ¶21).

6. In support of Sullivan's motion for a preliminary injunction, Sullivan relies upon the allegations set forth in his Verified Complaint (and Exhibits), and states the following:

7. Under the facts of this case, the limited injunctive relief requested is clearly warranted. See, e.g., Packaging Indus. Group, Inc. v. Cheney, 380 Mass. 609, 616-17 (1980) (injunctive relief warranted where there is a substantial likelihood of success on the merits, a substantial risk of irreparable harm, and the balance of equities weighs in favor of the moving party).

8. In order to protect himself from exposure to liability issues Sullivan requires that both the Phillips and the Town of Wayland and the ABCC be enjoined and restrained from continuing to request and/or issue Liquor License renewals and Common Victualler License renewals in the name of Dennis P. Sullivan, Manager, for The Dudley Chateau of Cochituate, Inc., relative to the business located at 20 Crest Road, Wayland MA.

9. In order to protect himself from exposure to liability issues Sullivan requires that both the Phillips and the Town of Wayland and the ABCC take all necessary steps to immediately remove Dennis P. Sullivan's name from the Liquor License and the Common Victualler License for The Dudley Chateau of Cochituate, Inc., issued in the name of Dennis P. Sullivan, Manager, relative to the business located at 20 Crest Road, Wayland MA.

10. A proposed form of Order is attached hereto.

WHEREFORE, Sullivan prays that his Motion be granted.


Dated: December 11, 2017

Respectfully submitted,  
Dennis Sullivan  
Patricia Sullivan, Power of Attorney  
By his counsel

  
/s/ David C. Crossley

DAVID C. CROSSLEY, ESQ. (BBO#648197)  
For CROSSLEY LAW OFFICES, LLC  
448 Concord Street  
Frammingham, MA 01702  
Tel. (508) 655-6085  
Fax: (508) 310-9022  
Email: [dcrossley@crossley-law.com](mailto:dcrossley@crossley-law.com)

Attorneys for Dennis Sullivan

<b>SUMMONS AND ORDER OF NOTICE</b>	DOCKET NUMBER <b>1781CV03623</b>	<b>Trial Court of Massachusetts The Superior Court</b> 
CASE NAME: <b>Dennis Sullivan, (Patricia Sullivan as Power of Attorney) vs. Kenneth Phillips et al</b>		Michael A. Sullivan, Clerk of Court Middlesex County
To: <b>Town Of Wayland</b>		COURT NAME & ADDRESS Middlesex County Superior Court - Woburn 200 Trade Center Woburn, MA 01801

To the above named defendant(s):

You are hereby summoned and required to serve upon:  
**D. Cash Crossley, Esq.  
 CROSSLEY LAW OFFICES, LLC  
 448 Concord St  
 Framingham, MA 01702**

an answer to the complaint which is herewith served upon you. This must be done within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, Judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this Court at Woburn either before service upon plaintiff's attorney or within a reasonable time thereafter.

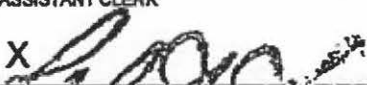
Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

**WE ALSO NOTIFY YOU** that application for a Preliminary Injunction has been made in said action, as it appears in the complaint. A hearing on this matter has been scheduled for:

**Date: 12/18/2017  
 Time: 02:00 PM  
 Event: Hearing on Preliminary Injunction  
 Session Location: Civil J Rm 420 / Courtroom 420**

RECEIVED  
 TOWN OF WAYLAND  
 TOWN CLERK  
 2017 DEC 14 AM 11:12

at which time you may appear and show cause why such application should not be granted.

DATE ISSUED <b>12/12/2017</b>	CHIEF JUSTICE OF THE SUPERIOR COURT Witness: <b>Hon. Judith Fabricant</b>	ASSOCIATE JUSTICE <b>Hon. Garry V Inge</b>	ASSISTANT CLERK <b>X</b> 
----------------------------------	---	---	---

**RETURN OF SERVICE**

I hereby certify and return that on \_\_\_\_\_, I served a copy of this summons, together with a copy of the Complaint.

PARTY NAME:

**X**

December 18, 2017

Brian W. Riley  
briley@k-plaw.com

RECEIVED  
DEC 21 2017

BY FACSIMILE (781) 939-0872 and  
BY FIRST CLASS MAIL

Clerk, Civil  
Middlesex Superior Court  
200 Trade Center, 2nd Floor  
Woburn, MA 01801

Re: Dennis Sullivan v. Kenneth and Mandy Phillips; Town of Wayland and  
Alcoholic Beverages Control Commission  
Middlesex Superior Court, C.A. No. 1781CV03623

Dear Sir/Madam:

Please be advised that this firm serves as Town Counsel to the Town of Wayland, named as a necessary party to the above captioned matter. I will be unable to attend the hearing today at 2:00 p.m. on the plaintiff's Motion for Preliminary Injunction on behalf of the Town. The motion seeks an order to prevent the Town's Board of Selectmen (among others) from issuing either a common victualler license or a renewed alcoholic beverages license that lists the plaintiff, Dennis P. Sullivan, as Manager or having an interest in the licenses. Please be advised that the Board of Selectmen will not approve a common victualler license with the plaintiff's name on it, and further the Board is informed that the defendants will apply for a new alcoholic beverages license, in their name, and therefore the 2017 license that lists Mr. Sullivan as Manager will expire on December 31, 2017 in accordance with General Laws Chapter 138. The Town will comply with any injunctive orders that the Court may issue in this matter. If you have any questions, please feel free to contact me at (617) 556-0007.

Very truly yours,



Brian W. Riley

BWR/bp

cc: Board of Selectmen  
David C. Crossley, Esq. (by email [dcrossley@crossley-law.com](mailto:dcrossley@crossley-law.com))  
Douglas Martland, Assistant Attorney General  
(by email [douglas.martland@state.ma.us](mailto:douglas.martland@state.ma.us))

599361/WAYL/0001



December 20, 2017

**RECEIVED**  
**JAN 02 2018**  
Board of Selectmen  
Town of Wayland

**Brian W. Riley**  
briley@k-plaw.com

Clerk, Civil  
Middlesex Superior Court  
200 Trade Center, 2nd Floor  
Woburn, MA 01801

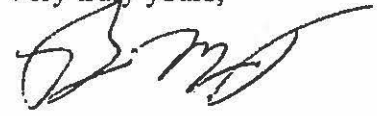
Re: Dennis Sullivan v. Kenneth and Mandy Phillips; Town of Wayland and  
Alcoholic Beverages Control Commission  
Middlesex Superior Court, C.A. No. 1781CV03623

Dear Sir/Madam:

Enclosed for filing, please find Answer of the Town of Wayland, along with a Certificate of Service.

Thank you for your attention to this matter.

Very truly yours,



Brian W. Riley

BWR/bp

cc: Board of Selectmen  
David C. Crossley, Esq  
Douglas Martland, Assistant Attorney General  
Kenneth Phillips, Esq.

599635/WAYL/0087

COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT OF THE COMMONWEALTH  
SUPERIOR COURT DEPARTMENT

WOBURN DIVISION  
C. A. No. 1781CV03623

MIDDLESEX, ss.

DENNIS SULLIVAN, (Patricia Sullivan as Power of Attorney) Plaintiff	ANSWER OF THE TOWN OF <u>WAYLAND</u>
v.	
KENNETH PHILLIPS, MANDY PHILLIPS Defendants	
and	
TOWN OF WAYLAND and, ALCOHOLIC BEVERAGES CONTROL COMMISSION Necessary Parties	

INTRODUCTION

1. Paragraph 1 calls for a conclusion of law to which no response is required.

PARTIES

2. The Town of Wayland lacks knowledge or information sufficient to admit or deny Paragraph 2.
3. The Town of Wayland lacks knowledge or information sufficient to admit or deny Paragraph 3.
4. The Town of Wayland lacks knowledge or information sufficient to admit or deny Paragraph 4.
5. The Town of Wayland lacks knowledge or information sufficient to admit or deny Paragraph 5.

6. Admitted.

7. Admitted.

JURISDICTION AND VENUE

8. Admitted.

9. Paragraph 9 calls for a conclusion of law to which no response is required.

10. Admitted.

11. The Town of Wayland lacks knowledge or information sufficient to admit or deny

Paragraph 11.

12. The Town of Wayland lacks knowledge or information sufficient to admit or deny

Paragraph 12.

13. The Town of Wayland lacks knowledge or information sufficient to admit or deny

Paragraph 13.

14. The Town of Wayland lacks knowledge or information sufficient to admit or deny

Paragraph 14.

15. The Town of Wayland lacks knowledge or information sufficient to admit or deny

Paragraph 15.

16. The Town of Wayland lacks knowledge or information sufficient to admit or deny

Paragraph 16.

17. The Town of Wayland lacks knowledge or information sufficient to admit or deny

Paragraph 17.

18. The Town of Wayland lacks knowledge or information sufficient to admit or deny

Paragraph 18.

19. The Town of Wayland lacks knowledge or information sufficient to admit or deny  
Paragraph 19.

20. The Town of Wayland lacks knowledge or information sufficient to admit or deny  
Paragraph 20.

21. The Town of Wayland lacks knowledge or information sufficient to admit or deny  
Paragraph 21.

22. The Town of Wayland lacks knowledge or information sufficient to admit or deny  
Paragraph 22.

23. The Town of Wayland lacks knowledge or information sufficient to admit or deny  
Paragraph 23.

24. The Town of Wayland lacks knowledge or information sufficient to admit or deny  
Paragraph 24.

COUNT I  
(BREACH OF CONTRACT)

25. The Town of Wayland restates and reavers its responses to Paragraphs 1 through 25.

26. The Town of Wayland lacks knowledge or information sufficient to admit or deny  
Paragraph 26.

27. The Town of Wayland lacks knowledge or information sufficient to admit or deny  
Paragraph 27.

28. The Town of Wayland lacks knowledge or information sufficient to admit or deny  
Paragraph 28.

COUNT II  
(INJUNCTIVE RELIEF)

29. The Town of Wayland restates and reavers its responses to Paragraphs 1 through 29.



30. The Town of Wayland lacks knowledge or information sufficient to admit or deny  
Paragraph 30.

31. The Town of Wayland lacks knowledge or information sufficient to admit or deny  
Paragraph 31.

32. The Town of Wayland lacks knowledge or information sufficient to admit or deny  
Paragraph 32.

33. Paragraph 33 calls for a conclusion of law to which no response is required.

34. Paragraph 34 calls for a conclusion of law to which no response is required.

35. Paragraph 35 calls for a conclusion of law to which no response is required.

COUNT III  
(INTERPLEADER)

36. The Town of Wayland restates and reavers its responses to Paragraphs 1 through 36.

37. Paragraph 37 calls for a conclusion of law to which no response is required.

COUNT IV  
(DECLARATORY RELIEF)

38. The Town of Wayland restates and reavers its responses to Paragraphs 1 through 38.

39. Paragraph 39 calls for a conclusion of law to which no response is required.

40. Paragraph 40 calls for a conclusion of law to which no response is required.

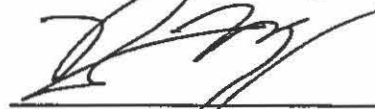
41. Paragraph 41 calls for a conclusion of law to which no response is required.

42. Paragraph 42 calls for a conclusion of law to which no response is required.

WHEREFORE, the Town of Wayland states that the complaint fails to state a claim for relief for which relief can be granted as to the Town and the complaint should be dismissed.

DEFENDANT,  
TOWN OF WAYLAND,

By its attorney,



---

Brian W. Riley (BBO# 555385)  
KP Law, P.C.  
101 Arch Street  
12th Floor  
Boston, MA 02110-1109

Date: Dec. 20, 2017

599568/WAYL/0087

CERTIFICATE OF SERVICE


I, Brian W. Riley, hereby certify that on the below date, I served a copy of the foregoing Answer to Complaint, by first-class mail, postage prepaid, to the following counsel of record:

David C. Crossley, Esq.  
Crossley Law Offices, LLC  
448 Concord Street  
Framingham, MA 01702

Kenneth B. Phillips, Esq.  
Law Offices of Kenneth B. Phillips  
12 Walnut Street, Suite 21  
Natick, MA 01760

Douglas S. Martland, Esq.  
Massachusetts Office of the Attorney General  
One Ashburton Place  
20<sup>th</sup> Floor  
Boston, MA 02108

Date: DEC 10, 2017

  
\_\_\_\_\_  
Brian W. Riley, Esq.

December 5, 2017

RECEIVED  
DEC 07 2017

Amy E. Kwesell  
akwesell@k-plaw.com

BY HAND

Clerk, Civil  
Middlesex Superior Court  
200 Trade Center, 2<sup>nd</sup> Floor  
Woburn, MA 01801

Re: Kenneth T. Nelson v. Town of Wayland Board of Health, et al.  
Middlesex Superior Court, C.A. No. 1781CV03336

Dear Sir/Madam:

Enclosed for filing in the above-referenced litigation, please find a Notice of Appearance of Amy E. Kwesell, as counsel for the defendants, Town of Wayland Board of Health and Town of Wayland Conservation Commission. Additionally, please find Defendants' Opposition to Plaintiff's Motion for Preliminary Injunction and a Certificate of Service.

Thank you for your attention to this matter.

Very truly yours,



Amy E. Kwesell

AEK/smm

Enc.

cc: Board of Selectmen  
Board of Health  
Conservation Commission  
George Hailer, Esq. (By Hand)  
Michael Fee, Esq. (By Hand)

598339/WAYL/0084



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPT.  
C.A. NO. 1781CV03336

KENNETH T. NELSON,

Plaintiff,

v.

TOWN OF WAYLAND BOARD OF  
HEALTH, et al.

Defendants.

NOTICE OF APPEARANCE

TO THE ABOVE-NOTED COURT:

Please enter the appearance of Attorney Amy E. Kwesell on behalf of the Defendants,  
Town of Wayland Board of Health and Town of Wayland Conservation Commission

DEFENDANTS,

TOWN OF WAYLAND BOARD OF  
HEALTH AND CONSERVATION  
COMMISSION

By their attorneys,



Amy Kwesell (BBO# 647182)

KP Law, P.C.

Town Counsel

101 Arch Street, 12th Floor

Boston, MA 02110-1109

(617) 556-0007

[akwesell@k-plaw.com](mailto:akwesell@k-plaw.com)

Date: December 5, 2017

597147/WAYL/0084

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPT.  
C.A. NO. 1781CV03336

KENNETH T. NELSON,

Plaintiff,

v.

TOWN OF WAYLAND BOARD OF  
HEALTH, et al.

Defendants.

DEFENDANTS TOWN OF  
WAYLAND BOARD OF HEALTH  
AND CONSERVATION  
COMMISSION'S OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
PRELIMINARY INJUNCTION

The Defendants Town of Wayland Board of Health and Town of Wayland Conservation Commission (collectively, "Town") hereby oppose the Plaintiff's Motion for Preliminary Injunction. The complaint challenges a permit issued by the Town's Director of Public Health on October 27, 2017 to co-defendants Despina Samiotes and Charles Samiotes allowing them to install a private well at 65 East Plain Street in Wayland. The Plaintiff claims the issuance of this permit violated his due process rights and the Open Meeting Law, and as a result he seeks a declaration that the well permit is invalid. As discussed below, the well permit was issued in compliance with the Board of Health's well regulations, negating Plaintiff's claim of a due process violation. Additionally, the Open Meeting Law does not apply in this case because the permit was reviewed and issued by the Town's Director of Public Health rather than the Board of Health, as permitted by the well regulations. In any event, Plaintiff has failed to follow statutory procedures for pursuing an Open Meeting Law complaint, see G.L. c. 30A, §23. As a result, the

well permit was properly issued and the Plaintiff's motion for preliminary injunction should be denied because he cannot demonstrate a likelihood of success on the merits.<sup>1</sup>

## ARGUMENT

### A. Preliminary Injunction Standard

When requesting preliminary injunctive relief between private parties, the moving party must demonstrate: (1) a likelihood of success on the merits; (2) it will suffer irreparable harm without injunctive relief; and (3) the anticipated harm to be suffered by the moving party if the injunctive relief is denied outweighs the harm the opposing party will suffer if enjoined.

Packaging Industries Group, Inc. v. Cheney, 380 Mass. 609, 617 (1980). "What matters as to each party is not the raw amount of irreparable harm the party might conceivably suffer, but rather the risk of such harm in light of the party's chance of success on the merits. Only where the balance between these risks cuts in favor of the moving party may a preliminary injunction properly issue." Id.

### B. The Plaintiff Cannot Demonstrate a Likelihood of Success on the Merits.

#### 1. Open Meeting Law Claim

There was no Open Meeting Law violation in this case because the well permit was reviewed and issued by the Town's Director of Public Health. Section II(A) of the Board of Health's well regulations (attached as Exhibit A to Plaintiff's complaint) states that a well permit may be "obtained from the Board of Health or its Agent." In this case, the well permit (attached as Exhibit B to Plaintiff's complaint) was signed and issued by Julia Junghanns, the Town's Director of Public Health, rather than the Board of Health. Although there is a signature line on

---

<sup>1</sup> Although Count I of the Plaintiff's complaint also challenges a Determination of Applicability issued to the co-defendants by the Town's Conservation Commission, the Plaintiff's motion for preliminary injunction and supporting memorandum of law only address the validity of the well permit issued on October 27, 2017.

the permit for the Board of Health, that line is empty. As a result, the permit was not acted on by a deliberative body, a public meeting was not required, and the Open Meeting Law did not apply. See G.L. c. 30A, §18, 20.

Even if the Open Meeting Law did apply, Plaintiff may not, as he has attempted to do, file such a claim directly in the Superior Court. Rather, G.L. c. 30A, §23 sets out a detailed administrative procedure for pursuing such a claim, which requires filing a written complaint with the public board at issue, allowing the public board time to respond to the complaint, and then, if the Plaintiff is dissatisfied with the response, filing a complaint with the Attorney General. See G.L. c. 30A, §23(a)-(e). A private action may be initiated in the Superior Court under the Open Meeting Law *only* by 3 or more registered voters. See G.L. c. 30A, §23(f). As such, Plaintiff has improperly filed his Open Meeting Law claim in this Court, and his claim therefore has no likelihood of success.

## 2. Due Process Claim

Additionally, the issuance of the well permit did not violate the Plaintiff's right to due process. The Board of Health's well regulations do not require public notice or a public hearing prior to the issuance of a well permit. There are also no state regulations related to the installation of private drinking wells that require notice or a public hearing. Although the Plaintiff's memorandum of law cites several cases in support of his due process argument, none of those cases is relevant to the particular facts in this case. None of the cases cited by the Plaintiff involves a situation where the issuance of a permit is alleged to have resulted in a violation of a third party's due process rights. This case is also clearly different from situations where a board has acted without providing notice required by a statute, such as the state Zoning Act.



Moreover, in order to establish a procedural due process claim, plaintiff must establish that he has a protected property interest. See Parsons v. Mobile Home Park Rent Control Bd. of Chicopee, 423 Mass. 631, 635 (1996) (citing PFZ Properties, Inc. v. Rodriguez, 928 F.2d 28, 30 (1<sup>st</sup> Cir. 1991)); see also Logan v. Zimmerman Brush Co., 455 U.S. 422, 430 (1982) (“[t]he hallmark of property ... is an individual entitlement grounded in state law”). Here, the Plaintiff has failed to demonstrate that the well permit issued to the co-defendants will deprive him of the use of his property as alleged. Although he alleges that he can no longer install a septic system pursuant to his approved plans, there is no evidence in the complaint or the Plaintiff’s motion regarding whether the plans can be revised to accommodate a septic system in compliance with the well regulations.

Further, plaintiff’s due process claim must fail due to the existence of an adequate state law remedy for the wrongs he alleges, in the form of a Certiorari appeal pursuant to G.L. c.249, §4, which plaintiff has in fact pursued in this case. See Zinermon v. Burch, 494 U.S. 113, 126, 110 S. Ct. 975, 983 (1990). Where state law provides an adequate remedy for any alleged failure of the Town to follow proper procedures with respect to issuing the well permit, any procedural due process claim deriving therefrom fails. Cf. Baker v. Gray, 57 Mass.App.Ct. 618, 625 (2003). (plaintiffs had no due process claim based on seizure of boating certificate, as several post-deprivation remedies were available, including actions for conversion, replevin, or review under the state Administrative Procedures Act); Nestor Colon Medina & Sucesores, Inc. v. Custodio, 964 F.2d 32, 40 (1st Cir.1992) (landowner could not pursue due process claim based on denial of permits, as state law allowed a request for reconsideration of decision, and judicial review).

Finally, with respect to the substance of plaintiff’s Certiorari claim under G.L. c. 249, §4 challenging the well permit, the complaint does not allege any facts demonstrating that the

Director of Public Health acted on the permit application in violation of the Board of Health's well regulations or otherwise acted without substantial evidence or in an arbitrary and capricious manner. Rather, the Plaintiff's certiorari claim related to the well permit appears to focus on the procedural issues already addressed above.

CONCLUSION

For the reasons set forth above, this Court should deny the Plaintiff's Motion for Preliminary Injunction.

DEFENDANTS,

TOWN OF WAYLAND BOARD OF  
HEALTH AND CONSERVATION  
COMMISSION

By their attorneys,



Amy Kwesell (BBO# 647182)

KP Law, P.C.

Town Counsel

101 Arch Street, 12th Floor

Boston, MA 02110-1109

(617) 556-0007

[akwesell@k-plaw.com](mailto:akwesell@k-plaw.com)

Date: December 5, 2017

597147/WAYL/0084

CERTIFICATE OF SERVICE

I, Amy E. Kwesell, hereby certify that on the below date, I served a copy of the foregoing Defendants Town of Wayland Board of Health and Conservation Commission's Opposition to Plaintiff's Motion for Preliminary Injunction and Notice of Appearance, by hand, to the following parties of record:

George Hailer, Esq.  
Benjamin O'Grady, Esq.  
Lawson & Weitzen, LLP  
88 Black Falcon Avenue  
Suite 345  
Boston, MA 02210

Michael C. Fee  
Pierce & Mandell, P.C.  
11 Beacon Street, Suite 800  
Boston, MA 02108

Dated: December 5, 2017

  
\_\_\_\_\_  
Amy E. Kwesell

December 19, 2017

RECEIVED

DEC 22 2017

Amy E. Kwesell  
[akwesell@k-plaw.com](mailto:akwesell@k-plaw.com)

Clerk, Civil  
Middlesex Superior Court  
200 Trade Center, 2<sup>nd</sup> Floor  
Woburn, MA 01801

Re: Kenneth T. Nelson v. Town of Wayland Board of Health, et al.  
Middlesex Superior Court, C.A. No. 1781CV03336

Dear Sir/Madam:

Enclosed for filing in the above-referenced litigation, please find the Answer of Defendants, Town of Wayland Board of Health and Town of Wayland Conservation Commission and a Certificate of Service.

Thank you for your attention to this matter.

Very truly yours,



Amy E. Kwesell

AEK/smm

Enc.

cc: Board of Selectmen  
Board of Health  
Conservation Commission  
George Hailer, Esq.  
Michael C. Fee, Esq.

599472/WAYL/0084



CERTIFICATE OF SERVICE

I, Amy E. Kwesell, hereby certify that on the below date, I served a copy of the foregoing Answer of Defendants Town of Wayland Board of Health and Conservation Commission, by electronic mail and first class mail, to the following parties of record:

George Hailer, Esq.  
Benjamin O'Grady, Esq.  
Lawson & Weitzen, LLP  
88 Black Falcon Avenue  
Suite 345  
Boston, MA 02210

Michael C. Fee  
Pierce & Mandell, P.C.  
11 Beacon Street, Suite 800  
Boston, MA 02108

Dated: December 19, 2017

  
\_\_\_\_\_  
Amy E. Kwesell

599423/WAYL/0084

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT  
C.A. NO. 1781CV03336

KENNETH T. NELSON,

Plaintiff,

v.

TOWN OF WAYLAND BOARD OF  
HEALTH, TOWN OF WAYLAND  
CONSERVATION COMMISSION,  
DESPINA SAMIOTES and CHARLES  
SAMIOTES,

Defendants.

ANSWER OF DEFENDANTS, TOWN  
OF WAYLAND BOARD OF HEALTH  
AND CONSERVATION COMMISSION

The Defendants Town of Wayland Board of Health and Town of Wayland Conservation Commission (collectively, "Town") hereby answer the allegations in the above-captioned Complaint as follows:

**INTRODUCTION**

The introductory paragraph preceding Paragraph 1 of the Complaint does not require a response by the Town. To the extent a response is required, the Town denies that any action by the Town was invalid or that there were any "procedural failures" on the part of the Town which deprived the plaintiff's use of his property without the required due process.

**PARTIES**

1. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.
2. Admitted.
3. Admitted.

4. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

5. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

**FACTS**

6. Admitted.

7. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

8. The allegations in Paragraph 8 of the Complaint refer to an October 10, 2014 Superseding Determination of Applicability which speaks for itself and therefore, no answer is required of the Town.

9. The allegations in Paragraph 9 of the Complaint refer to the May 15, 2015 Notice of Intent which speaks for itself and therefore, no answer is required of the Town.

10. The allegations in Paragraph 10 of the Complaint refer to the May 15, 2015 Notice of Intent which speaks for itself and therefore, no answer is required of the Town.

11. The allegations in Paragraph 11 of the Complaint refer to the May 15, 2015 which speaks for itself and therefore, no answer is required of the Town.

12. Admitted.

13. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

14. The allegations in Paragraph 14 of the Complaint refer to an Order of Conditions which speaks for itself and therefore, no answer is required of the Town.

15. The allegations in Paragraph 15 of the Complaint refer to an Order of Conditions which speaks for itself and therefore, no answer is required of the Town.

16. The allegations in Paragraph 16 of the Complaint refer to a Complaint filed in Middlesex Superior Court captioned Nelson v. Town of Wayland Conservation Commission, Middlesex Superior Court No. 1581CV05694 which speaks for itself and therefore, no answer is required of the Town.

17. Admitted.

18. The allegations in Paragraph 18 of the Complaint refer to a December 11, 2015 Superseding Order of Conditions which speaks for itself and therefore, no answer is required of the Town. Admitted that the Town appealed MassDEP's Superseding Order of Conditions.

19. The allegations in Paragraph 19 of the Complaint refer to a Middlesex Superior Court decision dated June 28, 2016 which speaks for itself and therefore, no answer is required of the Town. Admitted that the Town appealed the Middlesex Court decision dated June 28, 2016.

20. The allegations in Paragraph 20 of the Complaint refer to a Massachusetts Appeals Court decision dated October 6, 2017 which speaks for itself and therefore, no answer is required of the Town.

21. Denied.

22. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

23. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.



24. The allegations in Paragraph 24 of the Complaint refer to the Board of Health Well Regulations attached as Exhibit A to the Complaint which speaks for themselves and therefore, no answer is required of the Town.

25. The Town states that an application was filed with the Wayland Department of Health. Denied that it was filed with the Board of Health.

26. The allegations in Paragraph 26 of the Complaint refer to the Well Permit dated October 27, 2017 attached as Exhibit B to the Complaint which speaks for itself and therefore, no answer is required of the Town. Denied that the Well Permit was issued by the Board.

27. The Town states that the Board of Health was not required to hold a public hearing concerning the Well Permit.

28. The Town states that abutter notification is not required for the issuance of a Well Permit.

29. The Town states that the Board of Health did not issue the Well Permit, its Agent issued the Well Permit.

30. The Town states that neither Mr. Nelson nor any other potentially aggrieved party requested the opportunity to be heard concerning the Well Permit.

31. The Town states that no member of the public requested the opportunity to be heard concerning the Well Permit.

32. Admitted.

33. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

34. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

35. The allegations in Paragraph 35 of the Complaint refer to the Board of Health Well Regulations attached as Exhibit A to the Complaint which speaks for themselves and therefore, no answer is required of the Town.

36. The allegations in Paragraph 36 of the Complaint refer to 310 CMR 15.211, state regulations, which speaks for themselves and therefore, no answer is required of the Town.

37. The allegations in Paragraph 37 of the Complaint refer to 310 CMR 15.211, state regulations, which speaks for themselves and therefore, no answer is required of the Town. Further, the Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

38. Denied.

39. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

40. Denied.

41. Denied as the Board is not required to consider off site impacts when issuing a well permit.

42. The allegations in Paragraph 42 of the Complaint refer to the Request for Determination of Applicability attached as Exhibit C to the Complaint which speaks for itself and therefore, no answer is required of the Town.

43. Admitted.

44. The allegations in Paragraph 44 of the Complaint refer to a Superseding Order of Conditions which speaks for itself and therefore, no answer is required of the Town.

45. The allegations in Paragraph 45 of the Complaint refer to a Superseding Order of Conditions which speaks for itself and therefore, no answer is required of the Town.

46. The allegations in Paragraph 46 of the Complaint refer to a Determination of Applicability issued by the Wayland Conservation Commission which speaks for itself and therefore, no answer is required of the Town.

47. The allegations in Paragraph 47 of the Complaint refer to a Superseding Order of Conditions which speaks for itself and therefore, no answer is required of the Town. However, the Town does state that the Superseding Order of Conditions refers to 8 Hill Street and not the Defendants Samiotes' property.

48. The Town responds that the Superseding Order of Conditions refers to 8 Hill Street and not the Defendants Samiotes' property and therefore the Wayland Conservation Commission was not obligated to consider a Superseding Order of Conditions for a separate property.

49. Denied as only the proposed work at 8 Hill Street and not the Defendants Samiotes' property were considered as part of Plaintiff Nelson's Notice of Intent.

50. Denied.

51. The Town responds that the 2015 delineation referred to in paragraph 51 pertains to 8 Hill Street and not the Defendants Samiotes' property and therefore the Wayland Conservation Commission was not required to consider the 2015 determination.

### **COUNT I**

#### **(Appeal in the Nature of Certiorari – as to the Board and Commission)**

52. The Town incorporates herein Paragraphs 1-51 of this Answer.

53. Denied.

54. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. Denied.

**COUNT II**  
**(Violation of Due Process - as to the Board)**

61. The Town incorporates herein Paragraphs 1-60 of this Answer.

62. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

63. The Town is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

64. Denied.

65. Denied as the Board of Health did not issue the permit and further, the Board of Health was not required to hold a public hearing concerning the Well Permit.

66. Denied.

67. Denied.

**COUNT III**  
**(Violation of the Open Meeting Law - as to the Board)**

68. The Town incorporates herein Paragraphs 1-67 of this Answer.

69. Admitted.

70. Admitted that the Well Regulations allow either the Board or its Agent to issue a well permit.

71. Denied.

72. Denied.



73. Denied.

74. Denied.

**COUNT IV**

**(Declaratory Judgment – G.L. c. 231A - as to Mr. and Mrs. Samiotes and the Board)**

75. The Town incorporates herein Paragraphs 1-74 of this Answer.

76. Denied.

77. Admitted.

78. Denied.

79. Paragraph 79 of the Complaint comprises plaintiff's request for relief, which does not require a response by the Town. The Town, however, denies that the plaintiff is entitled to any of the relief sought.

The paragraph following Paragraph 79 of the Complaint comprises plaintiff's request for relief, which does not require a response by the Town. The Town, however, denies that the plaintiff is entitled to any of the requested relief sought.

**FIRST DEFENSE**

The plaintiff's allegation of harm is purely speculative and the plaintiff is not entitled to the relief sought or attorneys' fees and costs as requested in the Complaint.

**SECOND DEFENSE**

The plaintiff is not entitled to any relief due to its unclean hands.

**THIRD DEFENSE**

The Complaint should be dismissed for failure to state a cause of action upon which relief may be granted.

FOURTH DEFENSE

The plaintiff does not possess any interest in the subject property and, thus, lacks standing to bring the subject action.

FIFTH DEFENSE

The Town calls upon plaintiff to prove all of its right, title and interest to the property at 8 Hill Street which he claims to have suffered damages as a result of actions of the Town.

SIXTH DEFENSE

At all times relevant, the Town acted reasonably and in accordance with law.

SEVENTH DEFENSE

If the plaintiff suffered damages to a property interest as alleged, said damages were caused by events over which the Town exercised no control.

EIGHTH DEFENSE

The Complaint must be dismissed due to insufficiency of service of process.

NINTH DEFENSE

The Town breached no duty to the plaintiff.

TENTH DEFENSE

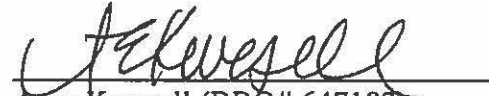
The Complaint is wholly insubstantial, frivolous and not advanced in good faith, and the Town is entitled to an award of their reasonable costs and attorneys' fees, pursuant to G.L. c.231, §6F.

WHEREFORE, the Town demands that this action be dismissed and that judgment enter in its favor together with costs and attorneys' fees.

DEFENDANTS,

TOWN OF WAYLAND BOARD OF  
HEALTH AND CONSERVATION  
COMMISSION

By their attorney,



Amy Kwesell (BBO# 647182)  
KP Law, P.C.

Town Counsel  
101 Arch Street, 12th Floor  
Boston, MA 02110-1109  
(617) 556-0007  
[akwesell@k-plaw.com](mailto:akwesell@k-plaw.com)

Date: December 19, 2017

599423/WAYL/0084

**JEFFREY L. ROELOFS, P.C.**

ENVIRONMENTAL AND LAND USE LAW

Newburyport

RECEIVED

DEC 22 2017

Jeffrey L. Roelofs  
30 Green Street  
Newburyport, MA 01950

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RECEIVED

December 20, 2017

Mark J. Lanza, Esq.  
Special Town Counsel, Wayland  
41 Cochituate Road  
Wayland, MA 01788

Amy E. Kwesell, Esq.  
KP Law, P.C., Town Counsel  
101 Arch Street, 12<sup>th</sup> Floor  
Boston, MA 02110-1109

Helen N. Skeen  
10 Glezen Lane  
Wayland, MA 01778

Douglas Scara  
55 Glezen Lane  
Wayland, MA 01778

RE: David Bernstein & others v. Town of Wayland Planning Board & others  
No. 2017-P-1567 (Massachusetts Appeals Court)  
(1) Docketing Statement, (2) Designation – Appendix, and (3) Statement of Issues

Dear Amy, Mark, Ms. Skeen and Mr. Scara:

This letter is provided pursuant to Mass. R. App. Pro. 18(b) in connection with the above-referenced appeal. First, please find enclosed the Appellant's Docketing Statement, filed electronically today.

Second, with respect to the Appendix, the Appellants intend to include in the Appendix the entire contents of the record below in the Superior Court, including all pleadings and court filings, with only a few minor exceptions of administrative items prior to 2016.

Third, the Appellants intend to present for review the following issues: Whether the Superior Court erred in (1) denying "Plaintiffs' Motion to Enforce Judgment on Count II and for Attorneys' Fees and Costs" and granting the Wayland defendants' cross motion for clarification, thereby significantly expanding its previous grant of limited relief from the parties' 2008 Consent Judgment - without factual or legal support and in contravention of Thibbitts v. Crowley, 405 Mass. 222, 226-27 (1989), and (2) subsequently denying plaintiffs' motion for reconsideration or, alternatively, to reopen the evidentiary hearing and awarding the Wayland defendants their fees and costs to defend that motion. I will circulate shortly a detailed index to the Appendix, identifying precisely what the Appellants propose to include in the Appendix.

Fourth, I plan to file a motion to join this appeal with the pending appeal related to the Superior Court's earlier ruling denying plaintiffs' motion for attorney fees and costs (Docket No. 2017-P-1075). That motion for fees was premised in large part on the Superior Court's previously-issued rulings, which the Court has since modified when it allowed the Wayland



December 20, 2017

Page 2

defendants' motion for "clarification." Please call me to discuss whether you would assent to joining these two appeals or, alternatively, staying the 2017-P-1075 appeal pending resolution of this new appeal since the issues presented in the pending appeal are largely dependent on the outcome of this appeal.

Sincerely,



Jeffrey L. Roelofs

Enclosure

**MASSACHUSETTS APPEALS COURT  
CIVIL DOCKETING STATEMENT**

Caption used in the lower court \_\_\_\_\_ Appeals Court Docket Number 2017-P-1567

Plaintiff(s): Kathleen Bernstein & others

v.

Defendant(s): Planning Board of Wayland & others

**1. Party Information**

Name of the appellant(s) or cross-appellant(s) on whose behalf this statement is being filed:

Kathleen Bernstein and David Bernstein

**2. Attorney Information**

Name Jeffrey L. Roelofs BBO# 628645

Or, check this box if you are self-represented and provide your name \_\_\_\_\_

**3. Lower Court, Board or Agency Information**

a. Court Department Middlesex Superior Court

b. Lower Court Docket Number(s) 0881CV0052

c. Specify the name and the role of each judge whose orders are at issue on appeal [not applicable for appeals directly from a board or agency]:

Judge, first and last name Helene Kazanjian Role Heard Motion

Judge, first and last name \_\_\_\_\_ Role \_\_\_\_\_

Judge, first and last name \_\_\_\_\_ Role \_\_\_\_\_

d. Was the case or any information in the record designated as impounded in the lower court? (see Section 3)  Yes  No

In addition to providing the information below, parties filing a brief or record appendix that contains impounded materials must comply with Uniform Rule on Impoundment Procedure Rule 12(c), Supreme Judicial Court Rule 1:15 s. 2(c), and M.R.A.P. 16(d), 16(m), 18(a), and 18(g). If this case or any material therein is impounded, specify which documents are impounded and the authority for impoundment, e.g. court order, statute:

#### 4. Nature of the Case

Select the most appropriate description, or enter description:

#### 5. Perfection of Appeal

a. Is the appeal from a final judgment, i.e., judgment disposing of all parties and claims?  Yes  No

b. If no, identify the basis on which the interlocutory order is immediately appealable.

c. Docketing Date of Judgment or Interlocutory Order Appealed

d. Date Notice of Appeal Filed

Please provide information regarding the following post-judgment motions that may affect the timeliness of the notice of the appeal.

Type of Motion	Check if filed		Date Served (not date filed)
Motion for Judgment (Rule 50(b)) Notwithstanding the Verdict	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Motion to Amend or Make Additional Findings (Rule 52(b))	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Motion to Alter or Amend Judgment (Rule 59)	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Motion for Relief from Judgment (Rule 60)	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Other (specify) <u>Reconsideration</u>	<input checked="" type="radio"/> Yes	<input type="radio"/> No	Sept. 21, 2017

#### 6. Appellate Issues

In cases other than child welfare appeals, please provide a short statement of the anticipated issues on appeal. If the appellate issue involves the interpretation of a particular statute or regulation, please provide a citation to that statute or regulation. (Note: This statement is for informational purposes only and failure to raise an issue here will not preclude an appellant from raising the issue in its brief.):

Whether the Superior Court erred in (1) denying "Plaintiffs' Motion to Enforce Judgment on Count II and for Attorneys' Fees and Costs" and granting the Wayland defendants' cross motion for clarification, thereby significantly expanding its previous grant of limited relief from the parties' 2008 Consent Judgment - without factual or legal support and in contravention of *Thibbitts v. Crowley*, 405 Mass. 222, 226-27 (1989), and (2) subsequently denying plaintiffs' motion for reconsideration or, alternatively, to reopen the evidentiary hearing and awarding the Wayland defendants their fees and costs to defend that motion.

#### 7. Related Appeals

Are there any pending, past, or anticipated future appeals or original appellate proceedings that involve these parties or this case which have been entered in the Appeals Court or Supreme Judicial Court?  Yes  No

Do you know of any pending or anticipated appeals raising related issues?  Yes  No

If you answered yes to either question, provide the case name and docket number and describe below the related matter or issue:

1. Kathleen Bernstein & others v. Planning Board of Wayland & others, No. 2017-P-1075. Involves the same case, but is focused on an attorney fee motion filed by plaintiffs after the Court issued two rulings denying the defendants' motions for relief from judgment except as to a limited category. The ruling at issue in this new appeal modified those previous rulings. Plaintiffs will seek to join these appeals.
2. David Bernstein & others v. Members of the Planning Board of Wayland & others, No. 2015-P-1533. Relates to a 2015 decision awarding the defendants temporary relief from the 2008 Consent Judgment. The appeal was later vacated without prejudice.

Respectfully Submitted,

Jeffrey L. Roelofs

Signature

/s/ Jeffrey L. Roelofs

Address

Law Offices of Jeffrey L. Roelofs, P.C.  
44 Merrimac Street, 3rd Floor  
Newburyport, MA 01950

BBO Number

628645

## CERTIFICATE OF SERVICE

Pursuant to Mass.R.A.P. 13(d), I hereby certify, under the penalties of perjury, that on this date of 12/20/2017  
I have made service of a copy of the Massachusetts Appeals Court Docketing Statement filed on behalf of

Kathleen Bernstein and David Bernstein, upon the attorney of record for each party, or if the party has no attorney then I made service directly to the self-represented party, by  hand delivery  first class mail  e-mail to the following person(s) and at the following address(es). Note: Service may be made by e-mail only with the consent of each party or opposing counsel:

Town Counsel: Amy E. Kwesell, Esq., KP Law, P.C., 101 Arch Street, 12th Floor, Boston, MA 02110-1109

Special Town Counsel: Mark J. Lanza, Esq., Wayland, 41 Cochituate Road, Wayland, MA 01788

Intervenors:

(1) Helen N. Skeen, 10 Glezen Lane, Wayland, MA 01778 and

(2) Douglas Scara, 55 Glezen Lane, Wayland, MA 01778

/s/ Jeffrey L. Roelofs

Signature

978-462-7600

Telephone

Law Offices of Jeffrey L. Roelofs, P.C.

44 Merrimac Street, 3rd Floor

Newburyport, MA 01950

Address



Personnel Board Meeting  
Wayland Town Building – Council on Aging Room  
Minutes  
October 16, 2017 7:00 pm

Members Present: M. Jones (MJ); D. Cohen (DC); M. Peabody (MP); J. Green (JG); P. Schneider (PS)

Also Present: J. Senchyshyn (JS)

MJ called the meeting to order at 7:03 pm.

Public Comment

Resident Anette Lewis had 2 comments:

1. She noted that Town employees should use their correct titles. She submitted an email to the Board where the Town Planner signed his email as the Director of Planning. And,
2. She wanted to again remind that Board that when the review and recommendations for FY 19 position requests are being considered later in the evening, that those requests have associated OPEB implications for any positions that are recommended for FY 19.

Review of FY 19 Position Requests with Department Heads

Fire – The Asst. Fire Chief Neil McPherson (NM) presented requests for 2 new Firefighters. The request would add a new Firefighter to 2 of the 4 shifts. Asst. Chief McPherson noted that as currently staffed, the Fire Department has not been able to fully convert to an Advanced Life Support (ALS) service. He stated that Firefighter staffing has not changed since the 1970s, yet the demand for emergency medical services has increased dramatically. The demand for services continues to be influenced by the rise in senior living facilities in Wayland. The Fire Department cannot fully implement the ALS service without the increase in staff. NM noted that reliance on mutual aid from neighboring towns is not a viable solution as response time would likely be greater from another community. An increased in-house response to medical emergencies might also enhance ambulance revenues. Should the Department be successful in adding 2 Firefighters, the Department would seek 2 additional Firefighters in future years to balance the shifts. JS noted that when fully loaded with benefits, the annual costs will exceed \$200,000 for 2 positions. NM stated a minimal off-set to overtime is possible, but any such reduction is contingent upon call volume.

Police – Police Chief Patrick Swanick (ChS) requested one new Police Officer. ChS stated that the overall Police Department staffing has not increased since the 1990s, yet call volume has risen substantially in recent years, much of the increased call volume is attributable to Town Center. An additional Officer would balance the night shift so that 3 Officers would be on each shift. The Department would better be able to respond to emergency calls and focus additional resources to traffic enforcement. JS stated that a fully loaded position with benefits would carry an annual cost of approximately \$95,000. CS believes a potential \$6,000 reduction in overtime would help offset the cost.

Conservation – Conservation Administrator Linda Hansen (LH) requested increased hours for the Conservation Land Manager from 19 hours/week to 28 hours/week. The Conservation Land Manager was recently added as a 19-hour per week, non-benefits eligible position, but more work needs to be completed on conservation land. LH expressed the need for additional field

work, clearing of trails and overall care of conservation lands as reasons for requesting an increase in hours. The department owns and maintains its own mowers and is anticipating purchasing additional equipment to aide in maintenance efforts. JS stated the estimated wage increase is \$11,100. The increase in hours will make the position benefits eligible, which could add significantly more in costs. PS asked about the potential increased use of volunteers. Discussion ensued about planning for maintenance as part of the acceptance process for acquiring new land.

Council on Aging – Council on Aging Director Julie Secord (JSe) and COA member Nancy Leifer (NL) requested increased hours for the Project Coordinator from 18 hours/week to 30 hours/week. JSe spoke to the breadth and depth of programming in the Council on Aging. For example, upwards of 5,700 meals are delivered annually. Staffing comparisons were made with the senior centers in Sudbury and Weston. The increasing senior population was referenced as a continuing factor in the COA's ability to offer appropriate services to the senior population. JSe expressed the difficulty the staff is having in keeping pace with events. NL commented on the loyalty and flexibility of the existing staff in completing the COA's initiatives. JS noted that the estimated wage increase is \$18,575. The increase in hours will make the position benefits eligible, which could add significantly more in costs.

DPW – Public Works Director Tom Holder (TH) requested 1 new position, a Project Manager and a change in hours for the Transfer Station Heavy Equipment Operator from 19 hours/week to 40 hours/week.

- JS spoke to the request for the Program Manager. The Public Buildings Department is a joint School and Town department. Numerous capital projects are backlogged. Active projects total 40 of which 22 are Town projects, 12 are School projects, and 6 projects are under the Green Communities Grant. It is not feasible for one Department Head to manage this many projects. Even if the several high cost projects are established with an Owner's Project Manager, there remains too many additional projects to reasonably manage. It is not expected that the overall project load will diminish in the future. JS stated that the Town Administrator's Office has invested considerable time in evaluating the back-logged projects and potential solutions. In working with the Public Buildings Director and the DPW Director, and after having consulted with the School Superintendent, the Town Administrator's Office is suggesting the addition of a Project Manager position to the DPW to assist in project management. The Project Manager would report directly to the DPW Director. The focus of the Project Manager would be on horizontal projects, not building structure projects. The exception could be DPW related projects. JS said the proposal was presented to the BOPW. The BOPW was supportive of the concept by a vote of 4-1. The cost of the position including benefits is estimated at \$117,000.
- TH spoke to the second request which is to increase the hours of 1 of the 2 part-time Heavy Equipment Operator positions at the Transfer Station from 19 hours/week to 40 hours/week. This position is currently vacant due to the death of the previous incumbent and has been filled for the past year with various DPW employees who have been re-deployed from their regular assignments. TH said 2 part-time positions do not provide adequate staffing for the Transfer Station. Even when filled, there was a reliance on moving other DPW workers to the Transfer Station on overtime to cover scheduled

absences. JS stated the estimated wage increase is \$23,400. The increase in hours will make the position benefits eligible, which could add up to an additional \$20,000 in benefit costs. TH stated that approximately \$13,000 in off sets to the overtime account is expected by not backfilling the current vacancy on Saturdays. He also noted that the position and the benefits would be funded through the Transfer Station revolving account and not have an effect on the overall operating budget.

WWMDC – Commissioners Fred Knight (FK) and Rick Green (RG) sought to increase the hours of the Account Specialist from 19 hours/week to 24 hours/week. FK spoke to a cooperative effort that has been underway with the DPW Engineer assisting the WWMDC with his wastewater expertise. With the increase in accounts and the reported level of responsibility of the Account Specialist, additional hours are required. FK noted that the Account Specialist works independently and has become the primary point of contact for those engaging the WWMDC. JS noted that the estimated wage increase is \$10,000. The increase in hours will make the position benefits eligible, which could add significantly more in costs. Any increases would be funded from the wastewater enterprise fund.

JS also stated the potential structure of wastewater staff in the future is not clear. Given the WWMDC's continuing talks with the BOPW and DPW, there is the possibility of incidental significant changes in the manner in which staff is used to address wastewater operations. Until there is a more definitive staffing plan for the future, increasing the hours of the Account Specialist could be problematic.

Chair MJ announced that the Board would take a 5 minute break and re-convene in the Selectmen's Office.

#### Review and Discussion on Recommendations for Department's FY 19 Position Requests

The Board discussed the departments' requests for FY 19 positions.

Fire – The Board acknowledged the increase in calls and the life safety issues associated with the call volume. The financial commitment to add two Firefighters is substantial. However, providing a timely ALS response is significant. While the need is legitimate, it has to be balanced against the ability to fund the positions. The Board was supportive of increasing shift size if funding can be addressed.

DC moved to recommend the request for 2 additional Firefighters if adequate funding can be identified. MP seconded the motion. Five members having voted in the affirmative, the motion passed.

Police – While acknowledging the increased call volume, the Board did note that this request is not associated with a significant crime increase in Wayland. Another significant funding commitment is required, with a minimal overtime offset. If funding is available, the Board supports the Police request.

JG moved to recommend the request for an additional Police Officer if adequate funding can be identified. DC seconded the motion. Five members having voted in the affirmative, the motion passed.

Conservation – While there may be a legitimate need to clear trails and care for the land, members discussed how pressing the need is when compared to other requests. The Board also considered an increased use of volunteers and/or seasonal workers as alternative to increasing the hours and creating a benefits eligible position. If Conservation continues to acquire more land, it was suggested that provisions for the upkeep and maintenance of the land should be made when the proposal to purchase the land is presented. Otherwise, requests for land management positions will continue.

MP moved to recommend the request for additional hours up to 28 hours/week for the Conservation Land Manager if adequate funding can be identified. JG seconded the motion. Four members, PS, MP, JG and MJ having voted in the affirmative, and DC having voted in the negative the motion passed 4-1.

Council on Aging – The Board recognize the increase in the senior community and the need for service. Members discussed the services that are being offered and suggested that the Town should identify the breadth of services it deems necessary to be offered and set appropriate staffing levels to deliver those services. If programs and services continue to grow, so will requests for staffing. The Board acknowledges the work of the staff in managing events and programming. To maintain the level of service, additional hours seem appropriate and the Board supports the request if funding is available.

JG moved to recommend the request for additional hours up to 30 hours/week for the COA Project Coordinator if adequate funding can be identified. PS seconded the motion. Five members having voted in the affirmative, the motion passed.

DPW – The Board discussed the request for the Project Manager. The current scheme to manage projects is not workable and adjustments need to be made. Without consideration for this position, it is not realistic to expect that the Public Buildings Department to manage projects through to completion. Projects are languishing and appropriated funding is not being used on a schedule as anticipated. It is not expected that the overall project load will diminish in the future. The Board is supportive of the proposal.

PS moved to recommend the request for the DPW Project Manager if adequate funding can be identified. DC seconded the motion. Five members having voted in the affirmative, the motion passed.

The Board then discussed the request to increase the hours of a part-time Heavy Equipment Operator position at the Transfer Station. In that the increased hours alleviates significant overtime, and given that the funding source is the Transfer Station Revolving Fund and does not affect the operating account, the Board supports this request.

DC moved to recommend the request for additional hours up to 40 hours/week for the Heavy Equipment Operator position at the Transfer Station, provided that all wage and benefit costs are charged to the Transfer Station Revolving Fund and does not affect the operating budget. PS seconded the motion. Five members having voted in the affirmative, the motion passed.



WWMDC – Board members discussed future staffing possibilities. Until there is a more definitive staffing plan for the future, the Board does not recommend increasing the hours of the Account Specialist.

PS moved to not recommend the request for additional hours for the Account Specialist. JG seconded the motion. Five members having voted in the affirmative, the motion passed.

The Board discussed drafting a memo to the Finance Committee to convey the recommendations. JG agreed to work with JS in preparing the memo.

#### Introduction of Board Member Email Addresses

JS shared with the Board the Town's intent to provide all board members with Town email accounts. The Personnel Board will be one of the first boards to receive a Town account. JS distributed information from the IT Director on how to establish the account.

#### Compensation for Town Clerk

JS shared his discussion with Town Counsel on compensation for elected officials. Under M.G.L Ch. 41, Sec 108A elected officials cannot participate in a wage & classification plan. However, under M.G.L Ch. 41, Sec 108 the Town could create a Special Act which would place an elected official on a classification plan. Given the language contained in the General Laws, there appear to be several options in addressing the compensation of the Town Clerk:

- Keep it as a separate article under ATM to set annual compensation,
- Draft a Special Act to create or add the Town Clerk to a wage & classification plan, or
- Change the Town Clerk to an appointed position and add it to the non-union wage & classification plan

The Board discussed the options and determined this item is better addressed by the BOS. JS indicated that he would share the discussion with the BOS.

#### Discussion on Preparation for BOS Warrant Hearing and Fall Town Meeting

JS reviewed the plans for the BOS warrant hearing and STM. He expected that the article regarding approval of the initial year of funding for the union contracts could garner discussion as it is new to Town Meeting. He suggested one of the members attend the warrant hearing on 11/6/17. DC indicated that she would be able to attend. JS noted that there is a meeting scheduled for 10/30/17 with the Moderator and Town Counsel to review motions. MJ stated that she would be available for STM.

JS reviewed the wage charts which would be included in the warrant for both non-union positions and those collective bargaining agreements which are settled. There are no plans to include FTE accounts as there is not a proposed change to the budget.

#### Update on HR Director Search

JS updated the Board on a search for his replacement. The HR Director position was advertised on 10/1/17. The job description for the Asst. Town Administrator would likely come before the Board at its next meeting. JS indicated that an interview committee would be created to interview HR Director candidates. He asked for a Board member to serve on the interview committee. PS volunteered to serve in that role.

#### Minutes of 9/11/17

The Board reviewed the draft minutes of 9/11/17.

PS moved to approve the minutes of 9/11/17 as amended. DC seconded the motion. Five members having voted in the affirmative, the motion passed.

Executive Session

MJ moved that the Personnel Board enter executive session pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(3) to review and potentially approve a Police MOA; review and prepare for Fire grievance regarding educational incentives; review and potentially approve the Executive Session Minutes of 9/11/17; and pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(2) to review and discuss an employment contract for the Police Chief.

The Chair declared that a public discussion of these items will have a detrimental effect on the bargaining position of the Town.

DC seconded the motion.

MJ took a roll call vote:

Member Green	Aye
Member Schneider	Aye
Member Cohen	Aye
Vice Chair Peabody	Aye
Chair Jones	Aye

MJ announced that the Board will reconvene in open session in approximately 20 minutes.

The Chair invited JS to join the executive session.

The Board returned to open session at 10:35 pm.

Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting

None

MP moved to adjourn the meeting at 10:40 pm. PS seconded the motion. Five members having voted in the affirmative, the motion passed.



---

John Senchyshyn  
ATA/HRD

**Regular Session**

**October 16, 2017**

Document:

Position Request - Conservation

Position Request - COA

Position Request - DPW HEO

Position Request - DPW Project Manager

Position Request - Fire

Position Request - Police

Position Request - WWMDC

Personnel Board Emails

MGL 108

MGL 108A

Wage & Classification Plan

Draft Minutes 9/11/17

Personnel Board Meeting  
Wayland Town Building – Selectmen’s Office  
Minutes  
November 13, 2017 7:00 pm

Members Present: M. Jones (MJ); D. Cohen (DC); M. Peabody (MP); J. Green (JG); P. Schneider (PS)

Also Present: J. Senchyshyn (JS)

MJ called the meeting to order at 7:03 pm.

Public Comment

None

Executive Session

MJ moved that the Personnel Board enter executive session pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(3) to hear a Step 2 Fire grievance regarding educational incentive pay; and pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(2) to review and discuss an employment contract for the Police Chief; and to review and potentially approve the executive session minutes of 10/16/17.

The Chair declared that a public discussion of these items will have a detrimental effect on the bargaining position of the Town.

DC seconded the motion.

MJ took a roll call vote:

Member Green	Aye
Member Schneider	Aye
Member Cohen	Aye
Vice Chair Peabody	Aye
Chair Jones	Aye

MJ announced that the Board will reconvene in open session in approximately 60 minutes.

The Chair invited JS and T. Dempsey and W. Tyree of the Fire union to join the executive session.

The Board returned to open session at 7:45 pm.

Review of Minutes of 10/16/17

The Board reviewed the draft minutes of 10/16/17 and made the following amendments:

... \$200,000 for 2 positions. NM stated ...

... of incidental to significant ...

... is used to address ...



... contract of for Police Chief ...

MP moved to approve the executive session minutes of 10/16/17 as amended. JG seconded the motion. Roll Call vote: Schneider – Aye, Peabody – Aye, Jones – Aye, Cohen – Aye, Green - Aye. Five members having voted in the affirmative, the motion passed.

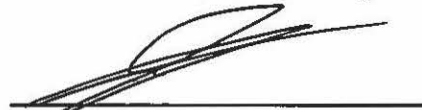
Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting

None

Next Meeting

JS asked the Board if it could meet briefly on the morning of 11/20/17 to review a job description. A quorum would be available and the meeting was set for 11/20/17 at 9:30 am.

DC moved to adjourn the meeting at 7:55 pm. PS seconded the motion. Five members having voted in the affirmative, the motion passed.



John Senchyshyn  
ATA/HRD

**Documents From Personnel Board Meeting**

**Regular Session**

**November 13, 2017**

Document:

Draft Minutes 10/16/17

Personnel Board Meeting  
Wayland Town Building – Selectmen’s Office  
Minutes  
November 20, 2017 9:30 am

Members Present: M. Jones (MJ); D. Cohen (DC); M. Peabody (MP); J. Green (JG); P. Schneider (PS)

Also Present: J. Senchyshyn (JS); N. Balmer

MJ called the meeting to order at 9:35 am.

Public Comment

None

Review of Asst. Town Administrator (TA) Job Description

Members reviewed the draft job description with PS’s edits. JG inquired about funding. JS responded that the combined grading of the HR Director and Asst. TA position should provide sufficient funding within the Town Office’s current salary budget. Discussion ensued on the formatting of several paragraphs. JS was asked to use language from a recent description to revise the line on “Office Equipment”. The Board inquired about the combination of procurement and the Asst. TA duties. JS noted that most Asst. TAs were tied to HR or financial responsibilities. MP questioned preferred Certification language, which was edited. Members inquired of NB if the job description met her needs for the Office. NB stated that it did.

DC moved to approve the Asst. Town Administration job description at a grade N9 as amended. PS seconded the motion. Five members having voted in the affirmative, the motion passed.

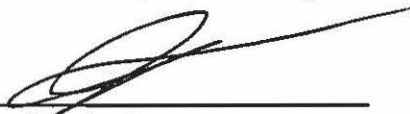
Next Meeting

JS asked the Board to hold 12/18/17 as a potential meeting to hold a grievance hearing.

Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting

None

DC moved to adjourn the meeting at 9:45 am. PS seconded the motion. Five members having voted in the affirmative, the motion passed.

  
\_\_\_\_\_  
John Senchyshyn  
ATA/HRD

**Documents From Personnel Board Meeting  
Regular Session  
November 20, 2017**

Document:

Draft Asst. Town Administrator Job Description



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

RECEIVED

DEC 14 2017

### NOTICE OF FILING, PUBLIC HEARINGS, AND PROCEDURAL CONFERENCE

D.P.U. 17-170

December 5, 2017

Petition of Boston Gas Company and Colonial Gas Company, each doing business as National Grid, pursuant to G.L. c. 164, § 94 and 220 CMR 5.00, for Approval of General Increases in Base Distribution Rates for Gas Service.

On November 15, 2017, Boston Gas Company ("Boston Gas") and Colonial Gas Company ("Colonial Gas"), each doing business as National Grid ("National Grid" or "Companies"), filed a petition with the Department of Public Utilities ("Department") for an increase in gas base distribution rates. The Department has docketed this matter as D.P.U. 17-170, and has suspended the effective date of the proposed rate increase until October 1, 2018, to investigate the propriety of the Companies' request. The Companies represent that they will implement any change in rates beginning November 1, 2018.

The Companies seek approval for base distribution revenue increases of \$178,905,053 for Boston Gas and \$32,112,986 for Colonial Gas. The Companies also propose to eliminate the amounts recovered through the targeted infrastructure recovery program and reduce the amounts recovered through the gas system enhancement plan and instead recover them through distribution rates. Based on this proposal, the overall revenue increases sought are \$68,188,370 for Boston Gas, which represents an increase of 13.0 percent on a total bill basis, and \$19,213,443 for Colonial Gas, which represents an increase of 17.0 percent on a total bill basis. National Grid states that if its petition is approved as requested, the proposed revenue increases will have the following effects:

#### For Boston Gas Customers:

- a typical residential non-heating customer using 90 therms per year will experience an annual bill increase of \$33.94, or 15 percent;
- a typical residential heating customer using 744 therms per year will experience an annual bill increase of \$80.17, or seven percent; and
- Commercial and industrial ("C&I") customers will experience annual increases in the range of two percent to 23 percent, depending on the amount of their usage.

**Barnstable, MA**

**Monday, February 5, 2018, at 7:00 p.m.**

**Barnstable High School**

**Senior Cafeteria**

**744 W Main Street**

**Hyannis, MA 02601**

**Quincy, MA**

**Tuesday, February 6, 2018, at 6:00 p.m.**

**Quincy City Hall**

**City Council Chambers**

**1305 Hancock Street**

**Quincy, MA 02169**

**Boston, MA**

**Wednesday, February 7, 2018, at 7:00 p.m.**

**Department of Public Utilities**

**One South Station**

**Second Floor**

**Boston, MA 02110**

**Lowell, MA**

**Thursday, February 8, 2018, at 7:00 p.m.**

**Lowell City Hall**

**City Council Chambers**

**375 Merrimack Street**

**Lowell, MA 01852**

A procedural conference in this matter will be held at the Department's office on Tuesday, December 19, 2017, at 2:00 p.m.

Persons interested in commenting on National Grid's filing may appear at any of the public hearings or may file written comments by the close of business (5:00 p.m.) on Thursday, February 8, 2018.

Any person who desires to participate in the evidentiary phase of this proceeding must file a written petition for leave to intervene or to participate in the proceeding no later than the close of business (5:00 p.m.) on Monday, December 18, 2017. A petition filed late may be disallowed as untimely, unless good cause is shown for waiver under 220 CMR 1.01(4). To be allowed, a petition under 220 CMR 1.03(1) must satisfy the standing requirements of G.L. c. 30A, § 10.

Any person who seeks to intervene in this matter and also desires to comment on the Attorney General's notice of retention of experts and consultants must file the comments no later than the close of business (5:00 p.m.) on Monday, December 18, 2017.

Any person desiring further information regarding this notice should contact Carol Pieper, Hearing Officer, Department of Public Utilities, at (617) 305-3500.

Reasonable accommodations at public or evidentiary hearings for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can. Also include a way the Department can contact you if we need more information. Please provide as much advance notice as possible. Last minute requests will be accepted, but may not be able to be accommodated. Contact the Department's ADA coordinator at [DPUADACoordinator@state.ma.us](mailto:DPUADACoordinator@state.ma.us) or (617) 305-3642.





**MASSACHUSETTS  
MUNICIPAL  
ASSOCIATION**

ONE WINTHROP SQUARE, BOSTON, MA 02110  
617-426-7272 • 800-882-1498 • fax 617-695-1314 • www.mma.org

RECEIVED

DEC 18 2017

December 12, 2017

Dear Local Official,

The Massachusetts Municipal Association's Annual Business Meeting will take place during the 2018 MMA Annual Meeting and Trade Show. This year, the Business Meeting is scheduled from 10:15 a.m. to 11:45 a.m., on Saturday, January 20, 2018 in Ballroom A at the Hynes Convention Center in Boston.

This letter outlines the voting procedures at the Annual Business Meeting. **Please note the changes to the vote card pickup procedure.** Each MMA member city or town is entitled to one vote. In order to vote at the meeting, a local official must be:

- The Mayor in a member city or town, or the City Manager in a Council-Manager city;
- The Select Board Chair or the Chair of the Town Council in a member town.

If an official from one of these categories cannot attend the January 20 business meeting, a councillor, selectman, or manager from that same MMA member city or town can vote in the person's place - but **only with written authorization** from the Mayor, City Manager, or Chair of the Select Board or Town Council.

These voting requirements are clearly stated in the MMA bylaws as follows:

"The following individuals are hereby designated as voting delegates and shall vote on behalf of members eligible to vote at any meeting of the members: (i) in the case of a city (A) its chief executive or (B) a councillor [or mayor or councillor in a city with a council-manager form of government] designated in writing by such chief executive officer; (ii) in the case of a town, (A) the chairman of the Board of Selectmen, the chairman of the Town Council, or (B) another selectman or councillor designated in writing by such chairman, or (C) the manager designated in writing by such chairman."

Eligible voters must **pick up** a single vote card in order to cast votes at the MMA Annual Business Meeting. If you will be voting on behalf of your community you must visit the credentials table between 9:00 and 10:00 a.m. before the Annual Business Meeting begins on Saturday morning, January 20. Only one voting card will be issued per member community.

Those officials who cannot attend the Annual Business Meeting and wish to designate someone else to take their place must send in written authorization to the MMA, c/o Vanessa Calaban, One Winthrop Square, Boston, MA 02110. We must receive these designation forms by **Wednesday, January 10, 2018** at the latest. Please remember to include your signature when filling out the enclosed form.

Thank you very much - we look forward to seeing you in January at Annual Meeting!

Sincerely,

A handwritten signature in black ink, appearing to read "Geoffrey C. Beckwith".

Geoffrey C. Beckwith  
Executive Director & CEO



# **Annual Business Meeting Saturday, January 20, 2018**

## **Credentials Vote Form**

**Note:** Please fill out if you, as the eligible voting member, **cannot** attend the MMA Annual Business Meeting and wish to designate another person from your community to vote in your place.

\_\_\_\_\_ I **cannot** attend the MMA Annual Business Meeting on Saturday, January 20, 2018.

Printed name \_\_\_\_\_

Signature \_\_\_\_\_

Municipality \_\_\_\_\_

I authorize the following person to vote in my place:

Name \_\_\_\_\_

Title \_\_\_\_\_

**Please Return By January 10, 2018 To:  
Vanessa Calaban, MMA  
One Winthrop Square  
Boston, MA 02110  
Email: [vcalaban@mma.org](mailto:vcalaban@mma.org)**